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BALTIMORE

This little book containing

1. A brief history of the origin and growth of Baltimore City in area, population and wealth and its progress in government;

2. The campaign pamphlet of the Non-Partisan Greater Baltimore Extension League, containing the full text of the Bill which was subsequently passed as the Act of 1918, Chapter 82, extending the limits of Baltimore City, and arguments and facts connected therewith;

3. The brief for the City in the cases in the Court of Appeals wherein the validity of the Act was attacked; and

4. The opinion of the Court of Appeals sustaining the Act,

is respectfully presented with the compliments of

S. S. FIELD,
City Solicitor of Baltimore,
1911 to 1918.

Field, Samuel S.

Greater Baltimore 1918

BALTIMORE CITY

BRIEF HISTORY OF ITS ORIGIN AND GROWTH.

The portion of Anne Arundel County made a part of Baltimore City by the Act of 1918, Chap. 82, was at one time a part of Baltimore County. The boundary line between Baltimore County and Anne Arundel County, as fixed by the Act of 1698, was located some distance south of the Patapsco River, but by an Act passed at a session which began July 12, 1726, that portion of Baltimore County, lying south of the Patapsco River, was, without any referendum, taken from Baltimore County and annexed to Anne Arundel County. The reasons for this Act of 1726, entitled "An Act for Uniting Part of Baltimore County to Anne Arundel County" are stated in the preamble, which recites the inconveniences of the inhabitants on the south side of the river, their distance from the Court House, &c., and as it appears that the petitioners

> "Were formerly part of Anne Arundel County; and that they, when Baltimore County was in its Infancy, were lopt off from Anne Arundel County meerly and with no other Intent than to bear a Part of the necessary charge of the said Baltimore County, with the few Inhabitants that were then therein, which, though their Taxes were much increased thereby, they bore with Patience.
>
> "And, for as much as great Part of the Land in Anne Arundel County is so much worn out, that several of the formed inhabitants thereof have of late years removed

into Baltimore County, for sake of the fresh Land there; and if the Inhabitants on the South Side of Patapsco River in Baltimore County aforesaid, are taken from that County, and made Part of Anne Arundel, there will still remain One Thousand Seven Hundred Ninety One Taxables, as appears by the list of Taxables, now returned from that County, which is a Number that far exceeds those in Four or Five other Counties of this Province; And that it appears by the said List of Taxables, that the Number of Taxables since last year has increased near Two Hundred, and in all Probability will in a very few years (by Lands being daily seated and taken up on the Branches of Susquehannah River, and other Rivers in the said County) be much improved."

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Baltimore Town was located on the north side of the Patapsco River, by Act of 1729, Chapter 12; its limits were enlarged by the Act of 1732, Chapter 14, and by the Act of 1745, Chapter 9, Baltimore Town and Jones Town were united. Jones Town and Baltimore Town were separated by Jones Falls, at that time, a beautiful stream rising up in the hills of Baltimore county and flowing about 15 miles into the Patapsco River. Jones Falls was bridged legally by the above mentioned Act of 1745, and from Baltimore street to Mt. Royal avenue, about a mile, was bridged physically in 1912 by concrete arches and the construction over the stream of a modern commercial highway, called the "Fallsway."

The limits of the consolidated town were extended, from time to time, by seven acts, between 1745 and its incorporation as Baltimore City by the Act of 1796, Chapter 68. In the early part of the last century Baltimore was made famous by her clipper ships and her privateers in the War of 1812; by her gallant defense at the Battle of North Point, and by the writing of the

"Star-Spangled Banner" by a Maryland lawyer, as the direct outcome of the bombardment of Fort McHenry. These stirring incidents probably awakened in the minds of the legislators of those days a vision of future greatness for the infant city on the Patapsco, which resulted in an Act of the Legislature of 1816, Chapter 209, extending the limits of Baltimore City so as to include about thirteen square miles, an area nine times as large as the area of the city prior to the passage of that act. To be exact, the area prior to the Act of 1816 was 937 acres, and, after the passage of the act, 8,448 acres.

In reference to this nine-fold enlargement of the City limits by the Act of 1816, the Sun Almanac of 1900, page 59, says:

> "In 1816, when 16,000 or 17,000 inhabitants were added to the population by Act of the Legislature, and against the protest of a large majority of the people of both the City and the county."

It sounds strange that people in the city objected to its enlargement, and indicates that the members of the Legislature of 1816 were far-seeing.

The vision of these early legislators was soon realized. By 1830 Baltimore had passed Philadelphia, thus becoming the second city in the Union, which position Baltimore continued to hold until the Civil War.

In many matters Baltimore was first, among which may be mentioned that the first monument to George Washington was erected in Baltimore, and that the first steam railroad engine and the first telegram were sent

from Baltimore. As a southern city, drawing its trade and commerce largely from the South, Baltimore felt the full force of the disastrous result of the war, which left the South and many of the city's leading citizens impoverished, and retarded the progress of the city for half a century. During this time cities in the North and West passed Baltimore, until, by the census of 1910, she became seventh in place of her former position as second of the cities of the United States.

Until 1851 Baltimore City was in Baltimore county, though she had her separate representation in the legislature as early as 1776, and her separate court as early as 1797. By the Constitution of 1851, as construed by the Court of Appeals, "Baltimore county and city are two separate and independent municipal corporations for all governmental purposes."

This separation was continued by the Constitution of 1864 and the present Constitution of 1867. In theory this condition ought to result in increased economy and efficiency in the city government. Theoretically two separate governmental agencies, one county and one city, exercising jurisdiction for local purposes over the same territory, might be expected to result in duplication of effort, working at cross-purposes, useless expense and lessening of efficiency. The actual experience of cities with county government has verified the theory. For illustration, we may take one of the most progressive of our modern cities and one of approximately the same population as Baltimore—the City of Cleveland. The Civic League of Cleveland petitoned the General Assembly of Ohio for the consolida-

tion of the city and county. From that petition the following facts appear:

"In Cuyahoga County there are at present 92 political subdivisions or taxing districts, as follows: 1 county, 3 cities, 27 villages, 16 townships, 45 school districts.

In these 92 political units there are 810 selective offices and over 10,000 appointive offices and places of employment. These offices are distributed as follows. The county elects 24, the 3 cities 99, the 27 villages 335, the 16 townships 136, and the 43 school districts 217.

The duplication of functions and the conflict of administrative authorities are such that there is bound to result a great waste of time, energy and money in the performance of public duties. The Civic League gives as a conservative estimate that the loss in wages alone amounts to $500,000 annually, and that the total loss through inefficiency would amount to at least $1,500,000, due to complicated machinery, increased cost of supplies, additional buildings, rents, etc."

In their petition the League say:

> "Not only is there a direct financial loss to this city because of these conditions, but there is a great social loss as well. The danger which constantly confronts the population of a large city in the form of crime and contagious disease can only be warded off and minimized by a unified and consolidated health and police administration within the whole urban area. In the face of these constant perils the people cannot trust to the spirit of co-operation between separate governmental units. There must be complete coordination within the whole urban area if the health and the social and moral welfare of the people are to be protected and promoted."

Cleveland has been referred to simply as an example. The same is true of New York, Chicago, Boston and other cities, as appears from articles in the annals of the American Academy of Political and Social Science for May, 1913, wherein the subject of "County Government" is treated at length.

Baltimore is free from the waste and inefficiency resulting from a double county and city government in the same territory, and we find, as we would expect to find, the resultant economy and efficiency. In the financial statistics of cities issued by the Bureau of Census of the United States for the year 1916 (p. 230) the cost per capita of city government in the cities with a population of over 500,000 is stated to be as follows:

New York	$3.49
Chicago	2.92
Philadelphia	2.77
St. Louis	2.18
Boston	2.91
Cleveland	2.01
Baltimore	1.83
Pittsburgh	3.31
Detroit	2.19

This economy in the government of Baltimore has not been obtained at the expense of progress. On the contrary, the progress of Baltimore in recent years is evidenced by the public improvements which have been constructed, by the steady and gratifying increase in the taxable basis, and generally by the satisfactory manner in which the various municipal functions have been performed. Without any increase in territory, the taxable basis has increased from $698,135,168 in 1911 to $915,-

433,444 in 1918. In February, 1904, Baltimore was visited by a disastrous conflagration. The heart of the city, including nearly all of its wholesale and jobbing houses, financial institutions and commercial wharves, was wiped out. A section a mile and a half long and half a mile wide was laid in ruins. The rehabilitation of the Burnt District cost the city treasury—the general taxpayers—more than eleven millions of dollars. The loss suffered by private individuals and corporations aggregated many times that sum. Yet in the same year, the city undertook to construct a sewerage system, which was completed in 1916.

The ground on which Baltimore is being built was originally a succession of hills and valleys, with a stream in every valley running through what is now the city and emptying into the Patapsco. These hills and valleys become more pronounced in Baltimore county, north and west of the city, and form scenery of unsurpassed beauty, immediately surrounding the city. Nine streams of considerable size rising in these hills in Baltimore county, flow through Baltimore City. This excellent natural drainage is probably the chief reason why Baltimore grew to be a city of more than a half million inhabitants, without any sewerage system. The failure to construct sewers as the city grew, made the expense much greater when in 1904 the city determined to construct them. Another factor also increased the expense. The Patapsco, just below Baltimore, empties into Chesapeake Bay. Chesapeake Bay and its tributaries produce the finest oysters in the world.

For fear of injuring the oysters in the Bay, Baltimore City was not permitted to discharge her sewage into the

Patapsco River, as other cities on rivers do, but was compelled to construct a very expensive disposal plant.

In addition to the $11,000,000 which the city has spent to rehabilitate the Burnt District, the improvements constructed since 1904, and nearly all since 1910, are as follows:

Modern sewerage system, cost....	$23,000.000.00
Improved and enlarged water supply and filtration plant, adequate to provide pure filtered water for a million people, cost	5,000,000.00
Harbor Improvements: Building new city piers Nos. 1, 2, 3, 4, 5, 6, 7 and 8; the new commercial and recreation pier at the foot of Broadway; opening and constructing Key Highway, to connect the inner harbor and Middle Branch on Spring Garden; opening of McComas street, and dredging the harbor. Total cost	8,500,000.00
New Polytechnic building and lot, $990,358.25; 18 new primary school buildings, $2,143,074.14..	3,032,432.39
109 streets opened at a cost of....	2,507,173.46
192 miles new modern paving, all done since 1911, at a cost of:...	6,830,000.00
1,018 miles of conduits for putting wires and cables underground, built and owned by the city; cost	5,267,000.00
High-pressure pipe line water service for protection against fire—not surpassed in the world; cost.....	1,000,000.00

The "White Way" in all the business section—the finest lighting system in the world; cost.....	80,000.00
The Fallsway—modern boulevard a mile long, on top of old Jones' Falls; cost.....	1,000,000.00
Three new bridges: Pratt street over the Fallsway, Monroe street over the B. & O., Bentalou street over the Western Maryland; cost.....	150,000.00
Total.....	$55,765,605.85

These improvements have been largely made from loans, which entailed an immediate charge upon the general taxpayers of a sum each year sufficient to pay the interest and to provide a sinking fund sufficient to pay the principal at its maturity. The present debt of the City of Baltimore, in which is included the cost of these improvements, is $94,209,579.50, and the amount in the sinking fund is $28,495,317.20, leaving a net debt of $65,714,262.30. When it is added that the average tax rate for the last six years (1912-1917) has been $1.98½, and that the average rate for the 16 years prior to 1912 was $1.97, it will be seen that economy and efficiency have gone hand in hand with progress and development in Baltimore City.

These good results are due, in part, to the fact that Baltimore City is not hampered by a county government, in part to the excellent provisions of the Baltimore City Charter, and in part to the progressive spirit and remarkable executive ability of the present Mayor of Bal-

timore, Hon. James H. Preston. Mayor Preston was first elected in May, 1911, after a bitter primary and general election in which he was pictured by the papers as the typification of machine politics. His plurality was 697. He entered office with the press and a very large proportion of the community bitterly hostile to him and feeling that a disaster had overtaken the city. At the end of his first four years his warmest supporters were the papers and the people who had opposed him in 1911, and he was re-elected in 1915 with a plurality of 17,057.

The extension of the city limits, from time to time, which is so essential to the systematic and orderly development of a city for the protection of its health and the promotion of good order and suppression of crime, has been made more difficult by the fact that the city is not in a county and its limits cannot be extended without taking territory away from a county. The result is that, until the recent Act of 1918, on two sides, east and south, the limits of the city had not been extended since 1816; the city had the smallest area in proportion to its population, only 31 square miles of which three are water, of any city in the United States; and a population greater than that of any other city in the State had overflowed and settled immediately around the city's boundaries, without any form of city government or any system of street planning, or harbor development, or health supervision, or adequate fire or police protection, and it took a struggle of years, including a political revolution at the election of 1917, which resulted in a plurality in Baltimore City of 2,900 Republican as compared with a plurality of 10,421 for President Wilson one year before, to

secure an extension of its limits from the Legislature of 1918.

In 1910 Baltimore lost sixth place to Cleveland by only 2,100 because of the failure to extend the city's limits in 1888 on the east as well as north and west. There were 20,000 people just over the city's eastern line who should have been annexed.

Prior to 1816 the City included about 1½ square miles. By the Act of 1816, Chapter 209, its area was extended to include 13 square miles. Within fourteen years, by the census of 1830, the City gained 75 per cent. over the census of 1810; it passed Philadelphia and became and remained for twenty years the second city in the Union. From 1816 to 1888, the area was 13 square miles. The Act of 1888 included 23 square miles, nearly twice the pre-existing area. The eastern section, 6 square miles, voted against annexation. So there was actually added only the northern and western sections, a total of 17 square miles; making the total 30 square miles.

The Act of 1918, Chapter 82, adds 52 square miles of land and about 75,000 population, making the City's present area (including water) 97.37 square miles, and its present population (estimated) 700,000.

The City now possesses every natural advantage for manufacturing; deep water, three great trunk line railroads, cheap factory sites, nearness to raw materials, and living conditions less expensive than in other cities of the same size.

To these advantages the Act of 1918 adds exemption of all personal property used in manufacturing and every indication points to a tremendous development in manufacturing following city extension.

The advantages of the Port of Baltimore have already put her next to New York in the shipment of grain. Baltimore is the natural Eastern port for the shipping through the Panama Canal.

Baltimore has again become, as she was in the early years of the last century, a ship-building center.

In the year 1904 but 7,950,933 bushels of grain were exported from Baltimore; the following year 22,754,652 bushels moved. Exports again fell off, so that in 1909 but 9,000,000 bushels were exported. Then followed:

1910.....	13,000,000 bushels
1911.....	20,000,000 bushels
1912.....	33,000,000 bushels
1913.....	46,000,000 bushels
1914.....	51,000,000 bushels
1915.....	90,000,000 bushels
1916.....	120,000,000 bushels
1917.....	66,000,000 bushels

The distance from New York to Pittsburgh is 441 miles, with a freight rate of 47.3 cents per 100 pounds; the distance from Philadelphia is 349 miles, with a freight rate of 41.3 cents. *The distance from Baltimore is* 314 *miles, with a freight rate of* 39.3 *cents.*

This shows that Baltimore is closer to Pittsburgh than Philadelphia is, despite the fact that both of said cities are in the same State.

The differential increases the farther west we go. The distance from New York to Detroit is 638 miles, with a freight rate of 61.5 cents. The distance from Philadelphia is 630 miles, with a freight rate of 55.5 cents. *The distance from Baltimore is* 609 *miles, with a freight rate of* 53.5 *cents.*

The distance from New York to Chicago is 908 miles, with a freight rate of 78.8 cents. The distance from Philadelphia is 817 miles, with a freight rate of 72.8 cents. *The distance from Baltimore is* 782 *miles, with a freight rate of* 70.8 *cents.*

This is a definite demonstration of Baltimore's commanding superiority as a distributing point in so far as the great West is concerned.

It can be seen, then, that, with substantially lower rates to all of the South and all of the West, and with equal rates to most of the points in a large area of the East at the same time that she has lower rates to a substantial portion of the East, it becomes absolutely indisputable that as a distributing port Baltimore holds a supremacy which no other Atlantic seacoast city can dislodge.

Has Advantages In Ocean Traffic.

And Baltimore is equally as well situated when it comes to the ocean side of her life.

The average man little realizes how far to the eastward the continent of South America lies. As a consequence it is difficult for one to understand that Baltimore stands in an almost direct northerly line from the east

entrance to the Panama Canal. This puts us in a splendidly advantageous proximity to that important trade route. We are closer to the Panama Canal than New York or Philadelphia is. We are 1,300 miles closer to the Pacific entrance to the Panama Canal than even San Francisco is. Goods bound from Chicago to Valparaiso, Chile, would find a much shorter route if shipped by way of Baltimore than if shipped by way of San Francisco. As a matter of fact, Baltimore is 580 nautical miles closer to the great Chilean port than San Francisco is. At the same time we enjoy equal advantages with other Atlantic coast cities when it comes to the eastern cities of South America.

ACTS RELATING TO BOUNDARIES OF BALTIMORE CITY.

ACT 1729, CHAPTER 12.

To erect Baltimore Town on the North side of the Patapsco East of Jones Falls on a tract of land of about 60 acres called "Coles Surprise." No referendum.

ACT 1732, CHAPTER 14.

To erect Jones Town; divided on the East from Baltimore Town by Jones Falls. This covered 10 acres where Edward Fells kept store. No referendum.

ACT 1745, CHAPTER 9 (PAGE 8).

Consolidated Baltimore Town and Jones Town into one Town, called Baltimore Town. Appointed Commissioners to survey and mark the boundaries of the town; and authorized them to employ a clerk and to levy "*the*

sum of *three pounds* yearly for the encouragement of their clerk to be paid to him." One of the provisions of the Act was that it shall not hereafter be lawful for any person or persons whatsoever to keep or raise any swine, sheep or geese within the said town unless they be well enclosed in some lot or fence. No referendum.

Act 1747, Chapter 21 (Page 48).

Enlarged the limits of Baltimore Town. This Act added 18 acres which lay between Baltimore Town and Jones Town. It contained a provision that anyone who permitted his chimney to get on fire should pay 10 shillings, and any one who did not keep a ladder high enough to reach the top of the roof of the house should pay a fine of ten shillings. Also a provision that nothing herein should be construed to authorize the town to elect any delegate to the General Assembly. No referendum.

Act of 1750, Chapter 11 (Page 10).

Added twenty-five acres to Baltimore Town on the north and east. No referendum.

Act of 1753, Chapter 20, (Pages 6 to 7).

Empowers the Commissioners of Baltimore Town to add thirty-two acres lying on the west part of Baltimore Town. No referendum.

Act 1765, Chapter 2.

Adds thirty-five acres to Baltimore Town on the west and south sides.

Act of 1766, Chapter 22.

Recites that a very large miry marsh adjoining the said town has, by the noxious vapors and putrid effluvia arising therefrom, become prejudicial to the health of its inhabitants and that the proprietors of the said marsh have by their perverseness or dilatoriness hitherto refused or neglected to remove the said nuisance and that the said nuisance cannot be removed otherwise than by changing the surface of said marsh into a firm and dry ground.

The Act then provides that the proprietors, Thomas Harris, Alexander Lawson and Brian Philpot, should make their election within one month whether they would remove the nuisance, and in default thereof that the Commissioners of the Town should remove it and the land should belong to the town.

Act 1773, Chapter 4.

Act for the enlargement of Baltimore Town. This Act added 80 acres lying on the east and southeast of Baltimore Town. No referendum.

Act of 1782, Chapter 2.

Recites that "John Eager Howard of Baltimore Town by his humble petition to this General Assembly has set forth that he is seized and possessed of great part of tract of land called Luns lot, part of which has been heretofore laid out into lots and annexed to Baltimore Town; which said lots have been built upon and considerably improved, and that it would tend greatly to the advantage of the said town in case other parts of the said tract of land were laid out into convenient

streets, lanes and alleys, and therefore prayed a law might pass for that purpose; and it appearing to this General Assembly that to extend the limits of the said town would contribute to promote the trade and commerce thereof."

The Act then proceeds to direct the Commissioners to lay out all of Luns lot, not theretofore laid out, as a part of Baltimore Town "at the proper cost and expense of the said John Eager Howard."

ACT 1796, CHAPTER 68.

To erect Baltimore Town into a City by the name of the City of Baltimore, and a body politic by the name of Mayor and City Council of Baltimore. Provided for the Mayor and City Council. This is the first Charter of the City. The Mayor and City Council succeeded the Town Commissioners who had managed the affairs of the Town.

ACT 1816, CHAPTER 209.

Extended the limits to North avenue on the north, to East avenue on the east, to the Patapsco to Ferry Bar, and thence to west side of Middle Branch on the south, and to about Payson street on the west. No referendum.

CONSTITUTION OF 1851.

Separated Baltimore City from Baltimore County. Referendum to people of entire State.

Act 1852, Chapter 17.

Provided that the County Officers might keep their offices in Baltimore City until the County seat was located for the County.

Act 1852, Chapter 18.

Provided that the Circuit Court for Baltimore County and the Orphans' Court for Baltimore County might hold their sittings in Baltimore City until the County seat was located. Refers to Section 8, Article 4 of the Constitution.

Act 1852, Chapter 86.

Provides that Justices of the Peace might take acknowledgments in Baltimore City until the county seat was located for the county.

Act 1852, Chapter 357.

Provided for the valuation and severance of certain property held jointly by the City and the County.

Act 1853, Chapter 253.

Was an Act providing for the valuation and division of the joint property of the city and the county; for adjusting their mutual concerns. The County Commissioners were to convey the Court House, Record Office and Jail and the City was to pay all unpaid indebtednesses therefor. They were to sell the almshouse and the net proceeds to be divided equally between the City and the County.

Act 1858, Chapter 248.

Was an Act to consummate the division of the joint properties of the County or City provided that the

County or City might buy the almshouse and pay to the other the one half and make levy for the amount of money necessary.

Act of 1874, Chapter 224.

Provided for an extension of the City's limits, but contained a referendum to the voters in the territory to be added. Extension defeated at the referendum.

Act 1888, Chapter 98.

Provided for adding three sections with total area of 23 square miles, but contained a referendum to the voters in each section separately. In the northern and western sections containing 17 square miles and about 35,000 people the vote at the referendum favored annexation; in the eastern section containing 6 square miles and about 20,000 people the vote at the referendum defeated annexation.

Act of 1918, Chapter 82.

Without a referendum adds to the city 52 square miles of land and about 75,000 population.

BALTIMORE'S GROWTH IN REPRESENTATION IN THE LEGISLATURE.

By the Constitution of 1776 Baltimore City was given two delegates and one senator. By an amendment to the Constitution proposed by Act of 1836, Chapter 197, the City's delegates were increased to five.

By the Constitution of 1851 Baltimore City was given ten delegates and one senator.

By the Constitution of 1864 the City was divided into three legislative districts, and given one senator and six delegates for each district; total, three senators and eighteen delegates. This was not changed by the Constitution of 1867, and the City's representation remained the same, until the amendment to the Constitution proposed by the Act of 1900, Chapter 469, ratified at the election in November, 1901, which divided the City into four legislative districts, with one senator and six delegates each, or a total of four senators and twenty-four delegates.

SUMMARIZED.

	Senators.	Delegates.
From 1776 to 1836.....	1	2
From 1836 to 1851.....	1	5
From 1851 to 1864.....	1	10
From 1864 to 1901.....	3	18
From 1901 to the present.....	4	24

BALTIMORE'S GROWTH IN POPULATION AND WEALTH.

1790	13,502
1800	31,514
1810	46,555
1820	62,738
1830	80,625
1840	102,313
1850	169,054
1860	212,418
1870	267,354
1880	332,313
1890	434,439
1900	508,957
1910	558,485
June 1, 1918 (estimated)	700,000

In 1889, after the annexation of 1889, the taxable basis of Baltimore City was $247,405,270. For 1918 it is $915,433,444. This does not include the new addition by Act of 1918, Chapter 82, which does not take effect, in that particular, until January 1, 1919. The basis year by year from 1901 to 1907 is shown in the following table.

(From The News of Oct. 1, 1917.)

Baltimore has the lowest tax rate of any city of its class in the United States. In the last 16 years the taxable basis of Baltimore City has more than doubled, as the following table will indicate:

Year.	Taxable Basis.	Tax Rate.
1901	$402,816,097	$1.81½
1902	431,082,122	1.95½
1903	440,153,153	1.86¾

1904.....	491,921,328.....	2.06
1905.....	503,144,182.....	2.11½
1906.....	548,522,063.....	2.00
1907.....	595,791,882.....	1.97½
1908.....	624,482,590.....	2.00
1909.....	655,401,372.....	1.95
1910.....	682,633,316.....	1.99
1911.....	698,135,168.....	1.98
1912.....	723,800,340.....	1.89
1913.....	741,909,312.....	2.01
1914.....	781,691,094.....	1.98
1915.....	818,102,313.....	1.92
1916.....	835,686,178.....	2.13
1917.....	868,426,115.....	1.98

The Census Bureau of the United States Government in a bulletin last year gave the following per capita costs of running the following-named cities:

Baltimore	$1.70
Cleveland	2.13
Detroit	2.21
St. Louis	2.30
Philadelphia	2.64
Chicago	2.90
Boston	2.91
Pittsburgh	3.13
New York	3.44

BALTIMORE'S PROGRESS IN GOVERNMENT.

Nearly two hundred years ago the Act of 1729, Chapter 12, authorized the laying out of a tract of sixty acres, called Cole's Harbor, on the north shore of the Patapsco River east of Jones Falls, into Baltimore Town. A Town Clerk was provided for, to keep a record of the laying out of the lots, but no town government.

Three years later the Act of 1732, Chapter 14, authorized the laying out of Jones Town on the north side of the Patapsco River, west of Jones Falls.

By Act of 1745, Chapter 9, which recited that the two towns had built a bridge over the Northwest Branch of the Patapsco (better known as Jones Falls), the two towns were consolidated into one, called Baltimore Town. Commissioners were provided for, who were authorized to employ a clerk and to levy upon the inhabitants of the two towns—

> "The sum of three pounds yearly, for the encouragement of their Clerk, to be paid to him."

The Commissioners were authorized to hold two fairs each year and to make rules and regulations for the town, but it was expressly provided that the town should have no representative in the Legislature.

Three years later, by the Constitution of 1776, Article 5, the inhabitants of Baltimore Town were authorized to send two delegates to the House of Delegates, and, by Article 14, one Senator.

The commission form of government continued in Baltimore Town until the first City Charter, created by Act of 1796, Chapter 68, which erected Baltimore Town into a city, by the name of the City of Baltimore, and provided for a Mayor and a City Council of two branches. The City was divided into eight wards. The First Branch City Council consisted of two members from each ward, elected for a term of one year; they were required to be twenty-one years old, to have been a resident of the town for three years, and to be assessed for $1,000. The election was held on the third Monday in February in each year. The Second Branch consisted of one member from

each ward. The Mayor and the Members of the Second Branch City Council were not elected by the people, but by eight electors, one chosen from each ward at the same time the Members of the First Branch were elected. These eight electors were directed to meet in the Court House or some other convenient place and choose a Mayor, who was required to be twenty-five years old and a resident of the City for four years, and who should hold office for two years. Members of the Second Branch were also required to be twenty-five years of age and resident in the City for four years and assessed for $2,000 each. The Mayor and City Council were given the power to provide for streets and highways, deepening and protecting the harbor within the City limits and four miles beyond, and pretty generally the same powers they now have.

No material change in the form of government of the City took place until 1898, when the New Charter was adopted by the Legislature by Act of 1898, Chapter 123. This New Charter was framed by a notable Commission, appointed by the Mayor pursuant to ordinance of November 24, 1897, and consisting of:

William Pinkney Whyte, Chairman,
Ferdinand C. Latrobe,
Daniel C. Gilman,
Samuel D. Schmucker,
George R. Gaither, Jr.,
Thomas Ireland Elliott,
Thomas G. Hayes,
Lewis Putzel,

New Charter Commission,
Frederick T. Dorton, Secretary.

The Baltimore City Charter is an admirable composite of the old Mayor and City Council form of government, which we may call "political," and the modern commission form, which we may call "business." We have the Mayor, Comptroller and President of the Second Branch City Council elected by the entire city to serve for four years; eight members of the Second Branch of the City Council, elected two from each of the councilmanic districts, and twenty-four members of the First Branch City Council, elected one from each of the 24 wards, all to serve for four years and all elected at the same time with the Mayor. This tends to promote concord and unity of purpose between the Mayor and the City Council. The City Council serves the good purpose of being a check upon any possible extravagance of the Board of Estimates and keeping the government closer to the people. Many of the important powers of the City Council, however, were taken away by the new Charter passed by the Legislature of 1898, including the power to fix the tax rate and to fix the amount of all salaries and expenses of all the departments of the city government, and the power to make all contracts. The power to fix the budget, or the amount of the appropriation for the expenses of every department, is vested in the Board of Estimates, composed of the Mayor, the President of the Second Branch City Council, the Comptroller, the City Solicitor and the Highways Engineer. The two latter are appointed by the Mayor, subject to confirmation by the Second Branch City Council. The power to award all contracts, above $500.00 which must be done through competitive bidding, is vested in the Board of Awards, composed of the same persons as the Board of Estimates, with the exception of the Highways Engineer, whose

place is taken by the City Register. The City Council can reduce, but cannot increase any appropriation made by the Board of Estimates in the annual budget,—which is called the Ordinance of Estimates,—nor can it decrease the tax rate fixed by the Board of Estimates. Thus, full control over the finances of the city is vested in these two boards, the Board of Estimates fixing the tax rate and the expenditures for salaries and expenses of all the departments, and any waste through foolish or corrupt contracts being prevented by the awarding of all contracts by the Board of Awards to the lowest responsible bidder. There has been not even a charge of corruption or favoritism in the award of any contract since the adoption of the new Charter. In addition to the ordinary expenses of the city government, Baltimore has, within a few years, made extraordinary expenditures of more than sixty-six millions in public improvements, without increasing the tax rate or creating a floating debt, or neglecting sinking fund requirements, and has maintained her reputation unsullied as a city without graft.

The principal changes effected by the New Charter were:

First: Centering responsibility in the Mayor, increasing his term of office from two years to four years, and enlarging his powers to correspond with his responsibility.

Second: The institution of the Board of Estimates, composed of the Mayor, the President of the Second Branch City Council and the Comptroller, all elected by the people, and the City Solicitor and Highways Engineer, appointed by the Mayor subject to confirmation by the Second Branch, with power to

control the total expenditures of the various departments, to fix the tax rate, and to pass judgment upon any ordinance introduced involving an expenditure of more than $2,000.

Third: The institution of the Board of Awards, composed of the Mayor, the President of the Second Branch City Council, the Comptroller, City Solicitor and City Register, who have control of the awarding of all contracts of over $500, coupled with the requirement that the contracts over $500 should be awarded to the lowest responsible bidder after competitive bidding.

The institution of these two Boards secures to the city all the advantages of a commission form of government upon what might be called the business side of the city; the total expenditures—and, therefore, the tax rate—are safeguarded by the veto power given to the Board of Estimates; and waste is prevented as to each contract by the requirement that the contract be awarded by the Board of Awards to the lowest responsible bidder. The retention of the City Council keeps the city government closer to the people and more responsive to the wishes of the people. The framers of the Charter wisely pursued the middle course between a purely political form of government (consisting of a Mayor and City Council) which is apt to be wasteful of the public money and frequently to breed corruption and favoritism, and a purely commission form of government, which is apt to grow autocratic and to be too little responsive to the will of the people. The Baltimore City Charter combines the advantages of the commission form and the political form and avoids the disadvantages of both.

Another change—which was an improvement—made by the New Charter of 1898 was the reduction in the number of Members of the Second Branch City Council and the provision that the President of the Second Branch should be a sort of Vice-Mayor and be elected by the people for four years. The division of the various functions of city government into departments, all of them subject, as to their expenditures, to the Board of Estimates and the Board of Awards, with an amendment passed by the Legislature of 1914 providing for a Chief Engineer, who should have final authority on all engineering questions, provides an efficiency of administration which is not surpassed, it is believed, in any city. The New Charter has stood the test not only of the ordinary routine of city government but of an era of unusual, tremendous public improvements, which have been effected with economy, efficiency and promptness.

[From the News of April 3, 1916.]

ANNEXATION BATTLE.

Friends of City to Organize for Fight in 1918—Greater Baltimore League Is To Be Strictly Non-Partisan In Its Nature.

Annexation is dead! Long live annexation. The friends of the movement to extend the city's lines sufficiently to give the old town a chance to grow started the battlecry anew to-day.

With the fading of the last ray of hope for success of their plans with the present session of the Legislature they are going to organize to get what the city needs from the Legislature two years hence.

Plans for the formation of a non-partisan "Greater Baltimore League" to prepare for another annexation fight in the Legislature of 1918 are being worked out by City Solicitor Field, who led the city's fight for the extension of its limits before the session that adjourns to-night.

Before going to Annapolis this morning Mr. Field gave out the following statement:

NON-PARTISAN MOVEMENT.

"I have already gone to work to form a plan of non-partisanship for a Greater Baltimore League. The purpose is to have it headed by prominent Democrats and Republicans, so as to guarantee its non-partisanship.

The first man I asked to join it was ex-Mayor Timanus, and he replied at once, 'Why certainly, I will.'

"The further purpose is to have the Legislature represented by the sentiment in the belt, and those favorable to annexation, and of the sentiment in all of the counties in the State, including Baltimore and Anne Arundel counties.

"Then it seems to me there should be a working executive committee appointed upon which there should be representatives from the counties in the State, and representatives from Baltimore and Anne Arundel counties, outside of the territory to be annexed, and representatives from this territory, in order that on the committee there might be men from every point of view, to discuss the fairness of the terms of the Furst bill in all particulars.

Details of Annexation.

"Further discussion might or might not suggest some changes in the boundary lines; some changes in the provisions in regard to paying the counties for the public property, schoolhouses, etc., included in the bill; some changes in the terms of taxation to be applied to the belt.

"I believe that the Furst bill is about as nearly a perfectly fair bill as can be drawn and that there will be no material changes in it, but inasmuch as we have time to consider the matter, it seems to me that the Greater Baltimore League should have the views of all the parties interested, including those from Baltimore and Anne Arundel counties, and then finally decide on this bill, with or without modifications, as may be determined, and demand the specific indorsement of this bill by all candidates for the Legislature of 1918."

[Editorial in the News of April 3, 1916.]

THE CITY MUST CARRY ON THE FIGHT.

There may have been Baltimoreans who doubted the advisability of starting an annexation fight at this time; but, now that it has been begun, there must be very few who do not recognize the impracticability of dropping it.

The issue has been joined on this proposition: Shall Baltimore, the metropolis of the State, the chief burden-bearer of its load of taxation, the center of its activities, the home of practically half its people, be permitted to grow as its necessities demand, as protection of the health' the morals and the general welfare of the community require, as reasonable and legitimate provision for development of outlying territory for city use imperatively calls for? Or shall Baltimore be held within limits prescribed by Baltimore and Anne Arundel counties and forced to accommodate itself within them?

Having cast the die, the city can do nothing else but fight to a finish, unless it is willing to assent to the drastic treatment the counties have undertaken to impose upon it.

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CALL FOR MEETING TO ORGANIZE THE NON-PARTISAN GREATER BALTIMORE EXTENSION LEAGUE.

To the Members of the Greater Baltimore League:

The undersigned, having been asked and having consented to serve as a Provisional Committee for the purpose of effecting an organization of the

NON-PARTISAN
GREATER BALTIMORE LEAGUE.

hereby call a meeting for the purpose of electing a President or Chairman of the Greater Baltimore League, and such other officers as may be determined upon at the meeting, and to provide for the appointment of such committees and the taking of such action as may be determined upon at said meeting in order to secure the passage by the next Legislature of a proper Act extending the limits of Baltimore City.

All members of the Greater Baltimore League are invited to attend the meeting for this purpose to be held on

Tuesday, January 30, 1917, at 3 o'Clock P. M.,

at the City Club Room,

Munsey Building, Baltimore, Md.

Edwin Warfield.
E. Clay Timanus.
Frank N. Hoen.
John T. Stone.
B. Howell Griswold, Jr.
George R. Gaither, Jr.
William B. Hurst.
Martin Meyerdirck.
William P. Ryan.
Louis K. Gutman.
Herbert A. Wagner.
Allan L. Carter.
W. Calvin Chesnut.
Felix Agnus.
J. Barry Mahool.
Jacob Epstein.
W. L. Marbury.
Dr. A. R. L. Dohme.
John R. Bland.
George Whitelock.
Charles E. Falconer.
Edward H. Bouton.
Eugene Levering.
Thomas J. Shryock.
William J. Chapman.
George S. Jackson.

DECLARATION OF PRINCIPLES AND PURPOSES OF THE NON-PARTISAN GREATER BALTIMORE EXTENSION LEAGUE.

(Adopted January 30, 1917.)

The members of the Non-Partisan Greater Baltimore Extension League, in a duly called meeting assembled, hereby adopt, as the fundamental principles upon which the League is founded, and to the support of which every member of the League is pledged, the following

Declaration of Principles

That the passage by the Legislature of 1918 of a proper Act enlarging the boundaries of Baltimore City is necessary to the growth and development of the chief city and port of Maryland; that this is a matter affecting the public welfare of the State, in which all the people of the State are interested, and, therefore, a matter which should be determined by the people of the entire State, or their representatives, viz: the Legislature, and should not be submitted to the determination of, or be made dependent upon the wishes of, a part of the voters of the State.

And We Declare the Purposes of This League to Be:

1. To work for a Greater Baltimore; to take the matter of the proper extension of the limits of Baltimore City out of politics; to treat the matter as a business proposition affecting the commercial and industrial development of the principal city and harbor of the State, and, therefore, affecting the public welfare of the State as well as the City, and, to accomplish these purposes, we invite all citizens of Maryland, of all parties and regardless of party, who are willing to support the declaration of principles of this League, to become members and assist in the effort to treat this question in a non-partisan manner.

2. To prepare and endorse a proper Bill for enlarging the boundaries of Baltimore City upon just, fair and equitable lines, having in view the commercial and industrial needs of Baltimore City and harbor and the public welfare of the State, and also the interests of the residents and taxpayers of the territory to be

added to Baltimore City, and fair treatment of the counties from which such territory is to be taken.

3. That a systematic and thorough and non-partisan campaign be made throughout the State for the Bill as endorsed by the League, to the end that the people of the State may become thoroughly familiar with the provisions of the Bill and the need of the City for additional room in which to grow, before the election of the members of the next Legislature.

RESOLUTION ADOPTED JANUARY 30, 1917.

Resolved, That the Directors of the Non-Partisan Greater Baltimore Extension League are hereby authorized:

(a) To procure suitable headquarters for the League, and for the work of its committees.

(b) To appoint a general secretary of the League and such other subordinate officers or clerical assistants as may be needed from time to time.

(c) To appoint a committee on draft of bill, to prepare and report to the League a proper bill for enlarging the boundaries of Baltimore City, in accordance with the declaration of principles and purposes of this League, and report such bill to a meeting of the League to be called for that purpose.

(d) To appoint a committee on membership, whose duty it shall be to bring the principles and purposes of the League to the attention of the people throughout the State, and invite all citizens of Maryland, of all parties and regardless of parties, who are willing to support the declaration of the principles of this League, to become members.

(e) To appoint a campaign committee, representative of the entire State, whose duty it shall be to conduct a non-partisan campaign throughout the State, free from party or factional alignment, upon the broad ground of the public welfare of the State and the interest of the entire State in the development of Baltimore City in population, commerce and industries, and in

the improvement of the health and public safety and good order of the City, and of the territory to be added to the City; for the purpose of securing endorsement by candidates for the Legislature of both parties, and by the conventions of both parties, of the bill which may be endorsed by the Non-Partisan Greater Baltimore League for extending the limits of the City of Baltimore, and to see that said bill is presented to the Legislature of 1918, and every proper effort made to secure its passage by said Legislature.

OFFICERS AND DIRECTORS ELECTED JANUARY 30, 1917.

HON. JAMES H. PRESTON
President

Vice-Presidents

HON. HENRY LLOYD — HON. FRANK BROWN
HON. EDWIN WARFIELD
HON. PHILLIPS LEE GOLDSBOROUGH — HON. E. CLAY TIMANUS
HON. J. BARRY MAHOOL

J. J. NELLIGAN, *Treasurer*
President Safe Deposit and Trust Company.

Directors

HON. E. CLAY TIMANUS, *Chairman*
Munsey Building
HON. J. BARRY MAHOOL, *Vice-Chairman*

B. HOWELL GRISWOLD
JACOB EPSTEIN
ANDREW J. DIETRICH
HON. GEORGE R. GAITHER
WM. L. MARBURY
MORRIS WHITRIDGE
GEORGE S. JACKSON
THOMAS J. SHRYOCK
S. S. FIELD
W. CALVIN CHESNUT

NOTICE OF MEETING.

(Advertised in daily papers of June 7, 1917.)

NON-PARTISAN GREATER BALTIMORE EXTENSION LEAGUE MASS-MEETING

At McCoy Hall, Eutaw and Monument Sts.,

Thursday, June 7, 1917, at 8 o'Clock P. M.,

To receive and act on the Report of the Committee on Draft of the Bill for the Extension of the Limits of Baltimore City, composed of Hon. Henry D. Harlan, Chairman, Hon. George R. Gaither, Hon. John F. Mudd, William L. Marbury, Esq., W. Calvin Chesnut, Esq., J. P. McGovern, Esq., Hon. W. Laird Henry, Benjamin A. Richmond, Esq., Alexander R. Hagner, Esq., John H. Richardson, Esq., S. S. Field, Esq.

Addresses will be made by Mayor James H. Preston, ex-Governor Phillips Lee Goldsborough, Judge Henry D. Harlan and other members of the committee.

Members of the League and all persons wishing to join invited. HELP YOUR CITY TO GROW.

JAMES H. PRESTON, ...
President of the League.

E. CLAY TIMANUS,
Chairman Board of Directors.

VICE-PRESIDENTS OF THE MEETING.

Dr. Frank J. Goodnow
Judge A. S. Niles
Mr. J. C. France
Mr. F. N. Hoen
Mr. B. Howell Griswold
Dr. A. R. L. Dohme
Dr. W. H. Welch
Mr. R. Brent Keyser
Mr. Van Lear Black
General Felix Agnus
Mr. Jacob Epsetin
Mr. John R. Bland
Mr. George Whitelock
Mr. Charles E. Falconer
Mr. Edward H. Bouton
Mr. Eugene Levering
Mr. Thomas J. Shryock
Mr. William J. Chapman
Mr. George S. Jackson
Gilmor S. Hamill, Esq.

Mr. Stuart Olivier	Ferdinand Williams, Esq.
Mr. Frank R. Kent	Albert A. Doub, Esq.
Mr. Eben A. Heinz	Emory L. Coblentz, Esq.
Mr. Carl R. Gray	Hon. Eugene J. Jones
Mr. A. W. Thompson	Hon. Wade D. H. Warfield
Mr. Herbert Wagner	Hon. Wm. F. Holmead
Mr. T. A. Cross	Hon. Wm. F. Chesley
Mr. G. R. Sinnickson	Hon. J. Mitchell Diggs
Mr. Frank A. Furst	Hon. Orlando Harrison
Hon. Henry Lloyd	Hon. W. Oscar Collier
Hon. Frank Brown	Hope H. Barroll, Esq.
Hon. Edwin Warfield	Hon. James Alfred Pearce
Hon. Phillips Lee Goldsborough	Col. John L. G. Lee
Hon. E. Clay Timanus	Thomas S. Baker, Esq.
Hon. J. Barry Mahool	Hon. Harvey L. Cooper
Mr. J. J. Nelligan	Hon. John F. Mudd
Mr. John T. Stone	Hon. William I. Norris
Mr. George R. Gaither, Jr.	Hon. Peter J. Campbell
Mr. William B. Hurst	Hon. George A. Frick
Mr. Martin Meyerdirck	Hon. Charles P. Coady
Mr. William P. Ryan	Hon. J. Charles Linthicum
Mr. Louis K. Gutman	Hon. Sherlock Swann
Mr. Allan L. Carter	Hon. Joshua W. Miles

FULL TEXT OF BILL REPORTED BY THE COMMITTEE AND UNANIMOUSLY APPROVED AT THE GENERAL MEETING OF THE LEAGUE ON JUNE 7, 1917.

A BILL ENTITLED.

AN ACT to extend the limits of Baltimore City by including therein parts of Baltimore County and Anne Arundel County.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That there is hereby added to the territory of Baltimore City all the territory lying between the boundaries of Baltimore City as they existed prior to the passage of this Act and the boundaries fixed by this Act as follows:

BEGINNING for the same at the point of intersection formed by the centre line of Park Heights avenue and the centre line of Slade avenue and running thence by a straight line due south to the centre line of

Frederick road; thence southeasterly by a straight line to the point of intersection formed by the centre line of the Annapolis or Light street road and the centre line of the direct road leading from Brooklyn to Pumphrey, said intersection being about two-thirds of a mile southwesterly from the Anne Arundel County end of the Hanover street bridge across the Patapsco River; thence still southeasterly by a straight line to a point on the west bank of Curtis Creek about 118 feet southwesterly from the west end of the highway bridge across Curtis Creek at Walnut Point; said point having a latitude north 39 degrees 12 minutes 29.2 seconds and longitude west 76 degrees 35 minutes 02.2 seconds (based upon the United States standards of datum of the United States Coast and Geodetic Survey); thence still southeasterly by a straight line to a point of latitude north 39 degrees 11 minutes 50 seconds and longitude west 76 degrees 33 minutes 00 seconds (based upon the same United States standards of datum of the United States Coast and Geodetic Survey); thence northeasterly by a straight line to the centre of the front range light of the Brewerton Channel, located near Hawkins Point, and continuing in the same direction to a point distant 1,000 feet northeasterly from said centre of said range light; thence by a straight line due north to intersect a line drawn due east from the place of beginning; thence reversing said line so drawn and binding thereon due west by a straight line to the place of beginning.

The courses in the above description are all referred to the true meridian of the City of Baltimore Topographical Survey Commission.

SEC. 2. *And be it further enacted*, That, except as hereinafter otherwise provided, all the provisions of the Constitution of Maryland and of the Baltimore City Charter, and other local laws applicable to Baltimore City, and all the existing ordinances of Baltimore City, shall be and the same are hereby extended and made applicable to such portions of Baltimore County and Anne Arundel County as shall, under the provisions of this Act, be annexed to and made part of Baltimore City; and thereupon all the provisions of the Public Local Laws of Maryland relating to Baltimore County, except as hereinafter otherwise provided, shall cease to be in force in such portions of Baltimore County as shall under the provisions of this Act, be annexed to and made part of Baltimore City, and all the provisions of the Public Local Laws of Maryland relating to Anne Arundel County, except as hereinafter otherwise provided, shall cease to be in force in such portions of Anne Arundel County as shall, under the provisions of this Act, be annexed to and made part of Baltimore City. But nothing herein, or elsewhere in this Act, shall affect the power of the Mayor and City Council of Baltimore to amend or repeal any ordinance existing at the date of the passage of this Act. Any reference herein to existing laws shall be understood to include any amendment or amendments which may be made to such laws at any time hereafter.

SEC. 3. *And be it further enacted*, That the Mayor and City Council of Baltimore shall be and hereby are authorized and required to cause the metes and bounds described in the first section of this Act to be forthwith surveyed and distinctly marked, and suitable boundary stones, marked as boundaries of the said city, to be placed at the beginning and at the termination of each line; and boundary stones marked as aforesaid, and not at a greater distance than fifty perches from each other, to be placed on all the lines which are not in the water and do not run with some natural boundary; and that the said Mayor and City Council shall cause three plats of the said survey to be made and duly certified as hereinafter provided, one of which shall be returned to and recorded in the office of the Clerk of the Circuit Court for Baltimore County, another of which shall be returned to and recorded in the office of the Clerk of the Circuit Court for Anne Arundel County, and the third shall be returned to and recorded in the office of the Clerk of the Superior Court of Baltimore City, and copies of the said plats, duly certified by the keepers of the said records for the time being, respectively, and under their respective seals of office, shall be admitted as evidence in all courts within this State. The said survey, so far as it relates to the boundary hereby established between Baltimore City and Anne Arundel County, shall be made under the direction of the Chief Engineer of the Topographical Survey Commission of Baltimore City and the Surveyor of Anne Arundel County, and so far as the same relates to the boundary hereby established between Baltimore City and Baltimore County shall be made under the direction of the Chief Engineer of the Topographical Survey Commission of Baltimore City and the Surveyor of Baltimore County. In the event of any disagreement between the Chief Engineer of the Topographical Survey Commission of Baltimore City and the Surveyor of Baltimore County, with reference to the proper location of the new boundary established by this Act between Baltimore City and Baltimore County, the point or points of disagreement shall be submitted to some competent surveyor to be named by the Governor of Maryland, whose decision thereupon shall be final; and in the event of any disagreement between the Chief Engineer of the Topographical Survey Commission of Baltimore City and the Surveyor of Anne Arundel County with reference to the proper location of the boundary established by this Act between Baltimore City and Anne Arundel County, the point or points of disagreement shall be submitted to some competent surveyor, to be named by the Governor, whose decision thereupon shall be final. After the boundaries shall have been fixed and established, and plat thereof made, as hereinabove provided, said plat shall be certified under the hand of the Chief Engineer of the Topographical Survey Commission of Baltimore City, and the copies thereof, as above provided, shall be by him delivered to the Clerks of the Circuit Court for Baltimore County, the Circuit Court for Anne Arundel County, and the Superior Court of Baltimore City,

to be recorded as hereinabove provided, the expense of such recording, at the usual rates, to be paid by the Mayor and City Council of Baltimore. The Mayor and City Council of Baltimore shall also pay to the Surveyor of Anne Arundel County, for the services required of him under this Act, the sum of one hundred dollars ($100.00), and shall pay to the Surveyor of Baltimore County, for the services required of him under this Act, the sum of three hundred dollars ($300.00), and the Mayor and City Council of Baltimore shall furnish, at its own expense, the necessary assistants to make the survey herein provided for. And the Mayor and City Council of Baltimore shall also pay a reasonable compensation to be fixed by the Governor to the surveyor named by the Governor as hereinabove provided, in the event that the Governor names a surveyor under the above provision.

Full power and authority is hereby given to said Chief Engineer of the Topographical Survey Commission and to said surveyors and their assistants to enter upon any and all property from time to time in the performance of the duties imposed by this Act, and to the Mayor and City Council of Baltimore to erect and maintain suitable stones or posts marking said boundaries as hereinabove provided. Any person interfering with said Chief Engineer, the said surveyors and their assistants or either of them in the discharge of the duties imposed by this section, or removing or interfering with said boundary stones or posts, shall be guilty of a misdemeanor and subject to a penalty of not less than five nor more than one hundred dollars and may be prosecuted before any Court or Justice having jurisdiction of misdemeanors committed in Baltimore City.

SEC. 4. *And be it further enacted*, That, until the redivision of the entire city, as constituted by this Act into wards, shall be otherwise provided for by law, the new territory added to the city by this Act shall be divided into four wards, to be numbered 25, 26, 27 and 28, the boundaries of said four wards to be as follows:

Ward 25. Shall comprise all of the new territory annexed to the city by this Act lying southerly of the line beginning where the boundary line established by this Act crosses the centre line of Frederick road; thence easterly, along the centre line of Frederick road to the western, and thence south to the southern boundary of Baltimore City as said western and southern boundary lines existed prior to the passage of this Act; then, following said pre-existing southern boundary line of the city, to the eastern boundary line of the city as it existed prior to the passage of this Act; thence easterly, along the North Shore of the North Branch of the Patapsco River, to the point where said north shore line intersects the eastern boundary line of Baltimore City established by this Act.

Ward 26. Shall comprise all the territory lying between the eastern boundary line of the city as it existed prior to the passage of this Act and the eastern boundary line of the city as established by this Act,

and between the north shore of the North Branch of the Patapsco River and the centre line of Belair road.

Ward 27. Shall comprise all of the new territory annexed to the city by this Act lying between the northern boundary line of the city as it existed prior to the passage of this Act and the northern boundary line of the city as established by this Act, and between the centre line of the Belair road and the centre line of the Reisterstown road.

Ward 28. Shall comprise all the new territory annexed to the city by this Act lying between the centre line of the Reisterstown road and the centre line of Frederick road and between the northern and western boundaries of the city as they existed prior to the passage of this Act and the western boundary of the city as established by this Act.

The duly qualified and registered voters in each of the said new wards shall be entitled to elect one member of the First Branch City Council, and the duly qualified and registered voters in Wards 25 and 26, together shall be entitled to elect one member of the Second Branch City Council, and the duly qualified and registered voters in Wards 27 and 28 together shall be entitled to elect one member of the Second Branch City Council.

At the regular councilmanic election in May, 1919, the said members of the First and Second Branches of the City Council shall be elected to serve for a term of four years, as provided in Sections 212 and 213 of the Revised Charter of Baltimore City.

As soon as they conveniently can, after the passage of this Act, the Board of Supervisors of Elections for Baltimore City shall divide each of said Wards 25, 26, 27 and 28, into election precincts conveniently arranged, having regard to the population and area, and the said Board of Supervisors of Elections shall provide suitable places for registation and polling places in all of said precincts, and shall cause a new registration of all persons entitled to vote in all of said precincts, to be made at the same time as the Baltimore City registration in the Fall of 1918, and shall provide for holding the Municipal Primary and General Elections in all of said precincts in the Spring of 1919 and all elections thereafter. All existing laws applicable to the registration of voters and to the Municipal Primary and General Elections in the Spring of 1919, within the limits of Baltimore City, as they existed prior to the passage of this Act, are hereby made applicable to the registration herein directed and to the Municipal Primary and General Elections in the Spring of 1919, hereby directed to he held by the Supervisors of Elections of Baltimore City in the territory comprised within the boundaries of the hereinabove specified Wards 25, 26, 27 and 28. Provided, however, that if the Supervisors of Elections of Baltimore City should be unable to hold the registration herein provided for in said Wards 25, 26, 27 and 28 on the same days as the registration in Baltimore City, as it existed prior to this Act, in the Fall of 1918, then they are hereby authorized to appoint such other days as, in their

judgment, may be suitable and sufficient for the purpose, at any time prior to the Municipal Primary in Baltimore City in 1919, and hold said registration in said Wards 25, 26, 27 and 28 on such other days so appointed, after having given the same notice which is required to be given for registration in Baltimore City by Section 14 of Artcle 33 of the Code. The Primary election for the nomination of candidates for Congress in the year 1918 and the general election in November, 1918, within the territory annexed by this Act of Baltimore City, shall be held by the Supervisors of Elections of Baltimore County and Anne Arundel County, respectively, just as if this Act had not been passed. All voters qualified to vote for members of the House of Delegates, and registered as hereinabove provided, or as hereafter provided by law, in the precincts comprising said Wards 25, 26, 27 and 28, respectively, shall be qualified and entitled to vote in the Municipal Primary and General elections to be held in the Spring of 1919, and all elections thereafter.

SEC. 5. *And be it further enacted*, That, until otherwise provided by law, said Ward 26 shall be included in and be a part of the First Legislative District of Baltimore City, and said Ward 27 shall be included in and be a part of the Second Legislative District of Baltimore City, and said Ward 28 shall be included in and be a part of the Third Legislative District of Baltimore City, and said Ward 25 shall be included in and be a part of the Fourth Legislative District of Baltimore City.

SEC. 6. *And be it further enacted*, That, until otherwise provided by law, the portions of Baltimore County and Anne Arundel County which are by this Act annexed to Baltimore City shall remain in the same Congressional District of which they now, respectively, form parts, but the Congressional as well as all other elections to be held therein after January 1, 1919, shall be conducted by the Supervisors of Elections of Baltimore City.

SEC. 7. *And be it further enacted*, That the Board of Supervisors of Elections of Baltimore County are hereby directed to provide new polling places for, or to so amend their election precincts as to include within existing election precincts, all registered voters residing in Baltimore County outside of the limits of Baltimore City as fixed by this Act and who have heretofore been registered in election precincts whose polling places were located within the territory annexed by this Act to Baltimore City; and the Board of Supervisors of Elections of Anne Arundel County shall, in like manner, provide new polling places or rearrange existing precincts so as to provide polling places for all registered voters of Anne Arundel County outside of the limits of Baltimore City as fixed by this Act and who have heretofore been registered in election precincts the polling places of which were located within the territory annexed by this Act to Baltimore City.

SEC. 8. *And be it further enacted*, That persons resident and property situate within the territory which by this Act is annexed to Baltimore City shall become subject to taxation for local city purposes beginning with the city levy, to be made in the Fall of 1918, for the year 1919. And the Treasurer of Baltimore County and the Treasurer of Anne Arundel County are hereby respectively authorized to collect all State taxes levied for the year 1918, and the proportion to December 31, 1918, of all county and other local taxes, if any, levied for the fiscal year 1918-1919, and all taxes for previous years which may not have been paid, to the same extent as if this Act had not been passed. The said Treasurers are hereby directed, in making out the bills for local taxes for the fiscal year 1918-1919, to deduct such proportion thereof as the time from December 31, 1918, to the end of said fiscal year shall bear to the whole year. The obligation of maintaining a police force for preserving the peace and of maintaining a fire department as a protection against fire, and of maintaining the public highways and public schools and of performing every other governmental or municipal function heretofore performed by the County Commissioners or other public officials in the territory which is by this Act annexed to Baltimore City (except the duties hereinabove imposed upon the Supervisors of Elections of Baltimore City) shall continue to rest upon the County Commissioners of Baltimore County and the County Commissioners of Anne Arundel County, respectively, or other public officials, until December 31, 1918, inclusive. Beginning with January 1, 1919, all these obligations shall pass to the Mayor and City Council of Baltimore or other public officials of Baltimore and the County Commissoners of Baltimore County and Anne Arundel County, respectively, shall be thereafter relieved therefrom.

SEC. 9. *And be it further enacted*, That the Mayor and City Council of Baltimore shall pay to the Treasurer of Baltimore County, for the use of said County, such a sum as shall be ascertained, in the manner hereinafter directed, to be the fair value to said County, after the passage of this Act, of all schoolhouses, including the school furniture therein, fire engine houses, including the fire engine and apparatus used in connection therewith, and police stations, situate within the territory which is by this Act annexed from Baltimore County to Baltimore City, and the said Mayor and City Council of Baltimore shall pay to the Treasurer of Anne Arundel County, for the use of said County, such a sum as shall be ascertained, in the manner hereinafter directed, to be the fair value to said County, after the passage of this Act, of all schoolhouses, including the school furniture therein, fire engine houses, including the fire engines and apparatus used in connection therewith, and police stations, situate within the territory which is by this Act annexed from Anne Arundel County to Baltimore City. The amount so to be paid to each of the said Counties, respect-

ively, shall be ascertained, in accordance with the principle hereinbelow stated, by arbitrators, one to be appointed by the Mayor of Baltimore City, one to be appointed by the County Commissioners of Baltimore County, for the purpose of passing upon the amount to be paid to the Treasurer of Baltimore County, as herein directed, and one to be appointed by the Mayor of Baltimore City, and one to be appointed by the County Commissioners of Anne Arundel County, for the purpose of passing upon the amount to be paid to the Treasurer of Anne Arundel County, in pursuance of this Section; in each case, the two arbitrators shall appoint a third, and if they cannot agree upon such third arbitrator the latter shall be appointed by the Governor of Maryland; the decision of two of said arbitrators shall be final and conclusive on both parties. In ascertaining the said fair valuation of said properties, or the amount to be paid to the Treasurer of each of said counties, respectively, the arbitrators shall take into consideration the location of each of said schoolhouses, fire engine houses and police stations, and the value or usefulness thereof to each of said counties, respectively, outside of the portion annexed by this Act to Baltimore City. If, in the judgment of said arbitrators, any fire engine house and lot, with its apparatus, any police station and lot, and any schoolhouse and lot and furniture, is so situate as to be of no use to the population of the counties outside of the territory annexed by this Act to Baltimore City, they shall value such engine house and lot and apparatus, such station house and lot, or such schoolhouse, lot and furniture, respectively, at a nominal valuation, and any such fire engine house, lot and apparatus, station house and lot, or schoolhouse, lot and furniture, so situated as to be, in the judgment of said arbitrators, of use to the inhabitants of the counties outside of the territory to be annexed by this Act to Baltimore City, shall be valued by said arbitrators according to their judgment of its usefulness to the people of the counties outside of the territory annexed by this Act to Baltimore City. The intention of this Section is that the Mayor and City Council of Baltimore shall pay to the Treasurer of Baltimore County and the Treasurer of Anne Arundel County, respectively, the fair value of any and every use of the public property hereinabove mentioned situate within the territory annexed by this Act to Baltimore City, of which the inhabitants of the County outside of said territory are deprived by this Act.

In addition to the payments hereinabove directed to be made, the Mayor and City Council of Baltimore shall also pay to the Treasnrer of Anne Arundel County the fair value of the existing bridge over Curtis Creek, included within the territory annexed by this Act to Baltimore City, said value to be ascertained in case of disagreement, by the arbitrators above mentioned upon the basis of the cost of reproducing said bridge new, less a proper charge for depreciation on account of age.

The total amount ascertained in pursuance of this section to be paid by the Mayor and City Council of Baltimore to the Treasurer of Baltimore County and the total amount so ascertained to be paid to the Treasurer of Anne Arundel County shall be paid by said Mayor and City Council of Baltimore in ten annual installments; one-tenth of said total amount to be paid on or before September 1, 1919, and one-tenth to be paid on or before the same date each year thereafter until the whole is paid. The title of the County Commissioners of Anne Arundel County and Baltimore County, respectively, or of other public officials or bodies holding title to any schoolhouses and lots, engine houses and lots, station houses and lots, together with the furniture and equipment therein or other public property situate within the territory annexed by this Act to Baltimore City, shall become and be vested in the Mayor and City Council of Baltimore as of January 1st, 1919—all of said property to be thereafter held by the Mayor and City Council of Baltimore upon the same public trusts upon which it has heretofore been held by the said County Commissioners or other public officials or bodies of the said counties, respectively.

SEC. 10. *And be it further enacted*, That the territory annexed to Baltimore City by this Act is hereby declared to be a taxing district, and, for the year 1919, the Board of Estimates and the Mayor and City Council of Baltimore, in fixing a tax rate, in the Fall of 1918, under Section 40 of the Charter, shall fix the rate of taxation for local purposes in said taxing district at a sum equal to 60 per cent. of the full city rate which shall be fixed by said Board upon real estate situate within the limits of Baltimore City as they existed prior to the passage of the Act of 1888, Chapter 98; and, in like manner, for the year 1920, the said Board of Estimates shall fix the rate for local purposes in said taxing district at an amount equal to 62 per cent. of the said full city rate on real estate in said old city limits; and so on, from year to year, with an increase of 2 per cent. each year of the precentage of the full city rate which is fixed as the rate upon real estate in the said old city limits, until the rate in said taxing district and in said old city limits shall become the same. Beginning with the rate for the year 1939, and thereafter the tax rate shall be the same throughout the entire city limits of the City of Baltimore as enlarged by his Act, provided that nothing in this Act shall be intended to repeal or affect any law or ordinances now existing or which may hereafter be passed fixing different rates of taxation upon different classes of property, the intent of this provision being that, beginning with the year 1939 and thereafter, there shall be the same rate of taxation throughout the entire limits of Baltimore City upon the same classes of property. The provisions of the Baltimore City Charter with regard to the assessment of property for taxation shall apply to the real and personal property situate in the territory annexed by this Act to Baltimore City, and to the personal property of residents of said territory,

to the same extent as they apply to the real and personal property situate in and to the personal property of persons resident in the limits of Baltimore City as they existed prior to the passage of this Act; provided, however, that no existing assessment on real or personal property situate in the territory annexed by this Act to Baltimore City or upon persons resident in such territory because of the ownership of real or personal property, shall be increased by the Appeal Tax Court or the assessors of Baltimore City prior to the assessment upon which taxes shall be levied for the year 1922, but this provision shall not be construed to prevent the proper assessment, under the provisions of the Charter of Baltimore City of any property, or of any persons by reason of the ownership of property, which may have been subject to assessment in said annexed territory at the time of the passage of this Act but which may have escaped or been omitted from the assessment rolls of Baltimore and Anne Arundel Counties, respectively. Nor shall anything herein affect the power of the Appeal Tax Court and the Assessors of Baltimore City to increase the assessment upon any person or property by reason of new or additional property acquired after the passage of this Act, or to increase the assessment upon real estate by reason of the construction of improvements thereon after the passage of this Act, or of improvements which may have been constructed so recently before the passage of this Act as not to have been assessed at the time of the passage of this Act. The rate of local taxation provided by this Section for the territory annexed by this Act to Baltimore City shall apply to all real and leasehold property situated in said territory, to all personal property located in said territory the sites of which for purposes of taxation is determined by the place of physical location, to all personal property, including shares of the capital stock of corporations, belonging to residents in said territory, the situs of which for purposes of taxation is determined by the place of residence of the owner, and to the proportion of the personal property of ordinary business corporations apportioned under the Act of 1914, Chapter 324, Section 88-C, to the capital stock of such corporations owned by residents of said territory. Provided, however, that nothing in this Act shall affect the provisions of Section 214 of Article 81 of Bagby's Code, as amended by the Act of 1914, Chapter 411, relating to the taxation of securities therein named. And provided further, that all personal property, of every description, owned by any person firm or corporation and used entirely or chiefly in connection with manufacturing, in the territory annexed by this Act to Baltimore City, including mechanical tools, or implements, whether worked by hand or steam or other motive power, machinery, manufacturing apparatus or engines, raw material on hand, manufactured products in the hands of the manufacturer, bills receivable and business credits of every kind, due to the manufacturer, for goods manufactured in Baltimore City shall be exempt from taxation for all ordinary municipal purposes.

To enable the Appeal Tax Court of Baltimore City to make up an assessment roll of the persons and property subject to taxation in the territory annexed by this Act to Baltimore City in accordance with the provisions of this Section, the County Commissioners of Baltimore County are hereby directed to furnish to the Appeal Tax Court of Baltimore City promptly after this Act takes effect and not later than December 31, 1918, a list or roll, duly certified by them to be correct, of all assessments upon persons resident in, and property situate in, the territory annexed by this Act from Baltimore County to Baltimore City, existing at the time of making said list or roll. Said list or roll shall be made up in a suitable book or books to be furnished by the Mayor and City Council of Baltimore to the said County Commissioners of Baltimore County. And the Mayor and City Council of Baltimore shall pay to the said County Commissioners of Baltimore County the reasonable expense of transcribing said list or roll of assessments, not exceeding the amount chargeable by law for furnishing transcripts from the Land Records.

And the County Commissioners of Anne Arundel County are hereby directed to furnish to the Appeal Tax Court of Baltimore City promptly after this Act goes into effect and not later than December 31, 1918, a list or roll, duly certified by them to be correct, of all assessments upon persons resident in, and property situate in, the territory annexed by this Act from Anne Arundel County to Baltimore City, existing at the time of making said list or roll. Said list or roll shall be made up in a suitable book or books to be furnished by the Mayor and City Council of Baltimore to the said County Commissioners of Anne Arundel County. And the Mayor and City Council of Baltimore shall pay to the said County Commissioners of Anne Arundel County the reasonable expense of transcribing said list or roll of assessments not exceeding the amount chargeable by law for furnishing transcripts from the Land Records. From said lists or rolls furnished by the County Commissioners of Baltimore County and the County Commissioners of Anne Arundel County, as herein directed, the Appeal Tax Court shall make up, as soon as they reasonably can, the assessment roll of the persons and property subject to taxation in the territory annexed by this Act to Baltimore City, and the tax rate for said territory, as hereinabove provided, shall apply to the roll so made up for the year 1919, and annually thereafter the tax rate as herein provided shall apply to said roll, with such changes thereof as may be made in accordance with this Act.

SEC. 11. *And be it further enacted*, That all roads, streets, avenues or alleys, lying in any of the territory hereinabove described, which shall have been heretofore dedicated and accepted or legally condemned as roads or streets, under the provisions of any Act of the General Assembly of Maryland, or of the common law, shall be held to be validly constituted public highways of Baltimore City; and all pro-

ceedings for the laying out, opening, grading and construction of streets, avenues, or alleys in said territory, which shall have been begun under any existing statutes of Maryland prior to the passage of this Act, shall be proceeded with and completed under the said Act or Acts in all respects as if this Act had not been passed. When such proceedings are completed, said streets, avenues and alleys shall be public highways of Baltimore City. Any bridges existing in any of said highways mentioned in this Section shall be considered as parts of such highways.

SEC. 12. *And be it further enacted*, That the Governor is hereby authorized to nominate and appoint one additional Justice of the Peace for Baltimore City, for each of said Wards 25, 26, 27 and 28.

SEC. 13. *And be it further enacted*, That all school teachers who shall be connected with the public schools in the parts of the territory described in this Act shall be allowed to retain their respective positions for the scholastic year 1918-19 and such teachers shall be deemed qualified and continued eligible without further examination to occupy positions as teachers in the public schools, in the same manner as if they had complied with the examination now required for teachers in the public schools of Baltimore City.

SEC. 14. *And be it further enacted*, That the Board of Police Commissioners if Baltimore City are hereby directed, in submitting their annual estimate to the Board of Estimates in the Fall of 1918, for the expenses of the Police Department for the year 1919, to submit an estimate of the cost to properly arm, equip and maintain an additional force of sixty men. Of said sixty men, so many may be appointed as sergeants, as in the judgment of the said Board of Police Commissioners, may be necessary, and the remainder shall be patrolmen; and the Board of Estimates shall provide in the Ordinance of Estimates for 1919 for the additional expense so estimated by the Board of Police Commissioners to properly enroll, arm, equip and maintain said additional force of sixty men, and the same shall be allowed in the Ordinance of Estimates for the year 1919. After the passage of said Ordinance said Board of Police Commissioners shall appoint and equip the additional force herein provided for, so that the same may be ready for service on January 1, 1919. In making such appointments, said Board of Police Commissioners are hereby directed to give preference to the members of the police force now employed by the County Commissioners of Baltimore County and of Anne Arundel County, respectively, and residing in the territory annexed by this Act of Baltimore City, and whom they may deem properly qualified to discharge the duties of the positions. The said additional force of sixty men, when enrolled in pursuance of this Section, shall be to all intents and purposes and shall thereafter remain a portion of the police force of Baltimore City, and shall be subject to duty at any place to which they may be ordered by said Board of Police Commissioners of Baltimore City. On and after January 1, 1919, all the duties heretofore resting

upon the Board of Police Commissioners of Baltimore City, with reference to the territory comprised within the limits of Baltimore City as they existed prior to the passage of this Act and the inhabitants thereof, shall rest upon the said Board of Police Commissioners with reference to the territory comprised within the limits of Baltimore City, as established by this Act and the inhabitants thereof.

SEC. 15. *And be it further enacted*, That all the inhabitants of the territory annexed to Baltimore City by this Act shall, in all respects and to all intents and purposes, be subject to the powers, jurisdiction and authority vested, or to be vested by law, in the Mayor and City Council of Baltimore, and to all the Ordinances now in force, so far as the same may be consistent with the provisions of this Act, and the territory so annexed shall, in all respects, be taken and considered as a part of said City of Baltimore. Provided, however, that the Act of 1908, Chapter 583, shall not apply to the territory annexed by this Act to Baltimore City; that the Special Paving Tax levied by the Act of 1912, Chapter 688, shall not attach to any property in the territory annexed by this Act to Baltimore City, on account of any improved paving laid before the passage of this Act, except paving done by the State Roads Commission, and that no ordinance of the Mayor and City Council of Baltimore existing prior to the passage of this Act, prohibiting the maintenance of stock yards, abattoirs, packing plants or other plants for the handling of live stock and live stock products, or fertilizer or acid works or soap factories or rendering plants; or prohibiting the keeping or driving of live stock or the keeping of fowls, or prohibiting or regulating manufacturing or other industrial works or business existing, and as conducted, prior to, and at the time of the passage of this Act, shall apply to any portion of the territory annexed by this Act to Baltimore City; but nothing herein contained shall be construed to affect the power of the Mayor and City Council of Baltimore to pass ordinances under the police power, or any other power in the Charter, affecting the territory and the inhabitants thereof annexed by this Act to Baltimore City, to the same extent as they may pass such ordinances affecting the territory and the inhabitants of Baltimore City as it existed prior to the passage of this Act.

SEC. 16. *And be it further enacted*, That no law prohibiting the sale of liquor in any part of the territory annexed by this Act to Baltimore City shall be altered, amended or repealed by any provision of this Act.

SEC. 17. *And be it further enacted*, That any and every company or corporation which at the time of the passage of this Act, shall be actually engaged in the business of supplying water to any of the inhabitants of the territory annexed by this Act to Baltimore City, shall be entitled to continue to supply with water such territory as they may be actually supplying at the time of the passage of this Act, and such additional territory as they may be permitted to supply in

pursuance of this section, after the passage of this Act, until such time as the Mayor and City Council of Baltimore may extend the Baltimore City water service into such territory, or any part thereof. Before the Mayor and City Council of Baltimore shall extend the Baltimore City water service into any territory occupied by any existing water company, the Mayor and City Council of Baltimore shall acquire, either by purchase or condemnation, the property of such water company in the territory into which the Baltimore City water service is to be so extended, excepting, however, lines of any water company used for supplying persons living outside of the limits of Baltimore City as fixed by this Act. No such water company shall be entitled to extend its mains or service into any new territory after the passage of this Act without applying to, and obtaining from, the Board of Estimates of Baltimore City the privilege of so extending its pipes and service. But the Board of Estimates of Baltimore City shall grant such privilege whenever applied for, upon the usual terms for granting minor privileges in the public highways of the City, and at rates not greater than the usual rates charged for laying other pipes in such highways, unless at the time such application is made the Water Board of Baltimore City is ready promptly to extend the Baltimore City water service into the territory so applied for by such water company. Every such water company shall be entitled to maintain, without any franchise or minor privilege charge, its existing pipes now situate in any portion of the territory annexed by this Act to Baltimore City, until the expiration of its existing right to maintain said pipes. And the Mayor and City Council of Baltimore shall grant to every such water company, upon payment of the usual franchise or minor privilege charge, any franchise or minor privileges which may be applied for to lay anlarged or additional pipes through any of the public highways within the limits of Baltmore City, as established by this Act, which may be necessary for supplying customers outside of said limits. Any company or corporation owning or operating any sewage disposal plant and sewer pipes connected therewith within the territory annexed by this Act to Baltimore City, shall be entitled to continue such service until such time as the Baltimore City Sewerage System may be extended into the territory, or any part thereof, occupied by such company or corporation. Before extending the Baltimore City Sewerage System into any such territory, the City shall require, either by purchase or condemnation, the property of the said company or corporation having such sewage disposal plant and sewer pipes connected therewith in the territory into which the said Baltimore City Sewerage System may be extended. But no sewerage system, other than the Baltimore City Sewerage System, shall be extended into any territory not occupied by it at the time of the passage of this Act, within the limits of Baltimore City as fixed by this Act, without the consent of the Board of Estimates of Baltimore City. The Board of Estimates shall grant such privilege, when applied

for, under the same conditions and upon the same terms as are hereinabove stated with regard to water companies. The territory occupied by any water company or sewerage company, shall be construed to mean all the territory which is reasonably near to any supply pipe of such company, and which may be considered naturally tributary thereto. "Supply pipe" shall mean any water pipe or sewer pipe other than house connections. Full power and authority is hereby given to the Mayor and City Council of Baltimore to acquire, by purchase or condemnation, and water works, water pipes, sewage disposal plant, sewers and any other property of any kind situate within the territory annexed by this Act to Baltimore City, which may be needed for any public purpose. In any such purchase or condemnation, compensation for the property taken shall be considered to include the value of the property taken and such damages, if any, as the owner thereof may suffer, by reason of such taking. Nothing herein shall be construed to impose any obligation upon the Mayor and City Council of Baltimore to purchase any private drains or sewers which may have been constructed in any portion of the territory annexed by this Act to Baltimore City prior to the passage of this Act, and which are not connected with any sewage disposal plant. Nothing in this Act shall be taken or construed as affecting the right of any company or corporation owning or operating a water or sewerage system in the territory annexed to Baltimore City by this Act to make any improvements, or construct, maintain, lay or operate any additional pipes or appurtenances in, under or upon private rights of way or upon private property; but this provision shall not limit the right of purchase or condemnation hereinabove given to the Mayor and City Council of Baltimore. Nothing in this Act shall be construed to give authority to furnish water or to operate a sewerage plant or system in any portion of the territory annexed by this Act to Baltimore City, to any company or corporation which is not otherwise entitled to do so. The word "Company" or "corporation" in this Section shall be construed to include any person or persons, firm or association.

SEC. 18. *And be it further enacted*, That all suits, indictments or other proceedings affecting any person or property, resident or situate, or relating to any crime or offense committed in any portion of the territory annexed by this Act to Baltimore City, which may have been instituted and may be pending at the time of the passage of this Act, shall be proceeded with in the same manner as if this Act had not been passed. Any and every person holding any State or County office in Baltimore County or Anne Arundel County and who may be a resident within the territory annexed by this Act to Baltimore City at the time of the passage of this Act, shall continue to hold such office until the termination of his then pending term as if this Act had not been passed.

EFFECT ON BALTIMORE CITY IF BILL IS NOT PASSED BY LEGISLATURE OF 1918.

(From the Baltimore *Sun* of Dec. 22, 1916.)

"Washington, Dec. 21.—A Census Bureau bulletin, giving estimates of the size of American cities on July 1, 1916, which was made public today, shows that Baltimore is in grave danger of dropping from 'seventh' to 'tenth city' in population rank by 1920 unless she extends her city limits and takes in her populous suburbs. Pittsburgh, Detroit and Los Angeles, through the annexation of their suburban territory, are crowding Baltimore for 'seventh' place, and if their gains for the next four years are as large as they have been in the last few years each will pass the Maryland Metropolis."

POPULATION, BY CENSUS OF 1910, AND AS ESTIMATED BY U. S. CENSUS BUREAU.

	Census 1910	July 1, 1916
BALTIMORE	558,485	589,621
PITTSBURGH	533,905	579,091
DETROIT	465,766	571,784
LOS ANGELES	319,198	503,812

UNANIMOUS REPORT OF COMMITTEE ON DRAFT OF BILL OF THE NON-PARTISAN GREATER BALTIMORE EXTENSION LEAGUE.

Composed of Hon. Henry D. Harlan, Former Chief Judge of the Supreme Bench of Baltimore City, Chairman, and Messrs. W. L. Marbury, George R. Gaither, Jr., Former Attorney General, and S. S. Field, of Baltimore City; Messrs. W. Calvin Chesnut, of Roland Park, and John H. Richardson, of Highlandtown, Baltimore County; J. P. McGovern, Esq., Representing the Portion of Anne Arundel County Proposed to be Added to Baltimore City; Hon. W. Laird Henry,

Former Judge of Court of Appeals, of Cambridge; Senator John F. Mudd, of Charles County; Benjamin A. Richmond, Esq., of Cumberland, and Alex. R. Hagner, Esq., of Hagerstown.

(Submitted to a General Meeting of the League at McCoy Hall, Baltimore, June 7, 1917.)

Baltimore, June 7th, 1917.

To the Non-Partisan Greater Baltimore Extension League,
Hon. James H. Preston, President.

Dear Sir:—

On February 16th, 1917, the Board of Directors of the Non-Partisan Greater Baltimore Extension League, in pursuance of the authority conferred upon them at the general meeting at which the League was organized, appointed the following committee to "prepare and report to the League a proper Bill enlarging the boundaries of Baltimore City, in accordance with the declaration of principles and purposes of this League":

Hon. James Alfred Pearce, former Judge of the Court of Appeals,

Hon. Henry D. Harlan, former Chief Judge of the Supreme Bench of Baltimore City,

Hon. John F. Mudd, former Senator from Charles County,

Alexander R. Hagner, Esq., City Attorney, Hagerstown, Md.,

Benjamin A. Richmond, Esq., Cumberland, Md.,

Hon. George R. Gaither, Jr., former Attorney General.

Messrs. William L. Marbury, S. S. Field, W. Calvin Chesnut and John H. Richardson.

The Resolution appointing the Committee authorized the Committee to fill any vacancy that might occur in its membership and to appoint an additional member from the Curtis Bay and Brooklyn District.

His Honor, Judge Pearce, having been unable to serve, Hon. W. Laird Henry, of Cambridge, also a former Judge of the Court of Appeals, was elected by the Committee, in place of

Judge Pearce; and, subsequently, the Committee appointed, in pursuance of the power conferred upon them, Mr. James P. McGovern, as a representative of the Curtis Bay and Brooklyn District.

The Committee held its first meeting on February 28th, organized by the election of Hon. Henry D. Harlan as Chairman and W. Calvin Chesnut, Esq., as Secretary, and began the consideration of a proper bill for extending the City Limits, taking Senate Bill 135 which passed the second reading in the Senate of 1916 as the basis.

Further sessions of the Committee were held on March 7th, 16th, 21st and 28th, and April 4th, 13th and 20th. At the fourth meeting, on March 21st, the Committee completed their tentative draft of the Bill, and gave notice through the newspapers that the tentative draft had been completed and printed; that any one desiring a copy could obtain one, and that the Committee would meet on March 28th, at the League Headquarters, at 3 P. M., to consider any suggestions or criticisms any one might offer personally or by letter. The Committee met for further public hearings on April 4th, 13th and 20th. The Committee specially invited the County Commissioners of Baltimore and Anne Arundel counties and also the Citizens' Committee of Baltimore County, to present their views to the Committee, either in person or in writing.

After hearing the views, suggestions and criticisms of all parties who desired to present their views to the Committee, the Committee have agreed upon a final draft of the Bill, and herewith present the completed Bill, as being, in their judgment, a proper, wise and fair measure for extending the limits of Baltimore City.

The facts that the area within the present limits of Baltimore City is the most densely populated of any city in the country; that the overflow from Baltimore City—closely settled just outside the limits—has reached a population greater than that of any city in the State other than Baltimore; that it has been twenty-nine years since there was any extension of the City limits to the north or west, and one hundred and one years since there was any extension to the east; together with a proper con-

sideration of the public health and the public peace and the opportunity which is now at hand for a tremendous development of the City and Harbor of Baltimore as a great manufacturing and shipping center, all demonstrate the necessity of so extending the limits of Baltimore City as to enable the City to make the most of the present opportunity, and to realize its highest and best development for the public welfare of the entire State.

The extension should be sufficient to provide for the needs and development of the City not only for the immediate present, but for a generation to come, because experience shows that extensions of the City limits can be obtained only after comparatively long intervals.

The area proposed to be added from Baltimore County is 46.5 square miles, a very small percentage, as there will be left to to County over 600 square miles.

The area taken from Anne Arundel is 5.4 square miles, leaving to Anne Arundel County 425 square miles.

Both of said counties will retain the same position relative to the other counties, both as to area and population, which they now hold, and the increment of value to the remaining land in the counties, after the proposed extension due to proximity to the City, will be sufficient to leave Baltimore County with an assessable basis more than twice as great as that of any other county in the State and will leave Anne Arundel County with an assessable basis larger than that of any county on the Eastern Shore.

The Committee feel that the extension provided for in the present Bill is reasonable and certainly not too much to provide for the probable needs of the City in the near future.

The proposed Bill provides that property in the territory to be added should be taxed at a rate equal to 60 per cent. of the full City rate for the year 1919, and that the percentage of the full City rate should increase 2 per cent. each year until the two rates became one at the end of 20 years. It was thought that the present City rate represents in part provision to meet the interest and sinking fund on old loans, the proceeds of which had been expended for purposes the benefit of which would not be fully received by the new territory, and that it would take some

time before the new territory received the full City benefits, and, therefore, it was thought just—both to the taxpayers in the present City and to the taxpayers in the new territory—not to apply the full City rate at once in the new territory, but to begin with the percentage thereof stated and increase the percentage gradually until the two rates became one. This tax provision has the merit of simplicity and the further merit that it will become adjusted to the full City rate automatically, without the necessity of further action by the Legislature.

It is believed by the Committee that additional benefits to the property and residents in the territory to be added to the City, in the shape of better police protection, better fire protection, better school facilities, the advantages of the City Plan Commission and the Topographical Survey Commission and the Harbor Board, for the development of property, better health protection and other City advantages, will fully compensate the residents in the new territory for the small increase which this Bill provides, as compared with the present county rate which they are paying.

The Committee had a precedent, in a recent Act providing for enlarging the limits of Hagerstown, for the principle of a sliding scale, applying the full City rate gradually, as adopted in this Bill.

The Committee have not felt that it was within their province to deal with the present tax rate on rural property in the present annex, but are of the opinion that the Legislature should, by a separate Act, increase the rate on rural property in the present annex so that it should not be at any time less than the rate fixed in this Bill for the new territory to be added by this Bill. A 65-cent rate on real estate within the present annex—41 cents less than the present rate in Baltimore County—is an anomaly and an injustice to the other taxpayers of Baltimore City which the Committee feel should be corrected by the next Legislature. This anomaly resulted naturally from the mistake that was made in the Act of 1888, in supposing that the Constitution required an Act for the extension of the limits of Baltimore City to be submitted to the voters of the territory to be added. There was no reason for giving to the people in the territory immediately surrounding the City a veto power upon

NAMES OF COMMITTEE GUARANTY THAT BILL REPRESENTS A "BROAD VIEW OF THE PUBLIC WELFARE."

(From the Hagerstown Morning Herald of July 30, 1917.)

The Non-Partisan Greater Baltimore Extension League has issued a pamphlet containing the history of the organization, the principles and purposes, officers and committees of the league, the report of the committee on draft of the bill for the extension of the limits of Baltimore City, the full text of the bill, the provisions of he Constitution fixing the representation of Baltimore City and each county in the Legislature, a reference to various acts extending the limits of Baltimore City and of other cities of the State, opinions of Messrs. William L. Marbury, Joseph C. France, George R. Gaither, George Whitelock, Alexander R. Hagner and Richard Dallam on the constitutional question which has been raised, and statistics as to the area, population and assessable basis of Baltimore City and of all the counties.

The report of the committee on draft of the bill shows that the committee had the matter under consideration for nearly four months, had eight meetings, including four for public hearings and finally unanimously agreed upon a bill which they recommended to a general meeting of the League held on June 7, 1917, by which the bill was unanimously approved by the League.

The committee which drew the bill was composed of Hon. Henry D. Harlan, chairman, for many years chief judge of the Supreme Bench of Baltimore City, dean of the law faculty of the University of Maryland and president of the Johns Hopkins Hospital trust estate; Hon. W. Laird Henry, of Cambridge, former chief judge of the First Judicial Circuit and associate judge of the Court of Appeals of Maryland; Benjamin A. Richmond, Esq., of Cumberland, perhaps the leading lawyer of Western Maryland; Hon. John F. Mudd, State senator from Charles county; Alexander R. Hagner, Esq., city attorney of Hagerstown; James P. McGovern, attorney, selected to represent the manufacturing interests of the Curtis Bay district; Messrs. W. Calvin Chesnut and John H. Richardson, prominent attorneys representing the portion of Baltimore county proposed to be

added to the city, and Messrs. Wm. L. Marbury, former Attorney General George R. Gaither and S. S. Field, City Solicitor, representing the city.

Territorially the committee consists of four from Baltimore City and seven from outside the city, and politically of five Democrats and six Republicans.

The names of the members of this committee are a sufficient guarantee that the bill framed by them is not the result of any personal, factional, political or local influence or consideration, but represents a broad view of the public welfare. No measure could obtain the unanimous approval of the committee whose names have been mentioned except a measure which they believe to be for the best interests of the entire State.

COMMITTEE'S INVITATIONS FOR SUGGESTIONS AND CRITICISMS.

On March 31st, 1917, the Committee on Draft of Bill inserted in the daily papers notice that they would hold a public hearing with regard to the provisions of the Bill, and in the notice stated:

> "The Bill tentatively agreed on has been printed and copies of it may be obtained from the undersigned or any member of the Committee.
>
> W. Calvin Chesnut, Secretary.
> Henry D. Harlan, Chairman."

Not having received any suggestions from the Baltimore County Committee or the County Commissioners of either Baltimore County or Anne Arundel County, at the meetings of the Committee on April 4th and 13th, the Chairman of the Committee, Judge Harlan, sent the following letter to the Baltimore County Citizens' Committee:

"April 17th, 1917.

Citizens' Committee,
Mr. Carville D. Benson, Vice-Chairman.

Gentlemen:

This is to advise you that the Committee on Draft of the Bill of the Non-Partisan Greater Baltimore Ex-

tension League, after having gone carefully over the Bill and all of its provisions and after having heard suggestions from different parties who have appeared before them, have agreed upon a tentative draft of the Bill and have had the same printed.

I am enclosing you a copy of the Bill, and am authorized by the Committee to say that they would be glad to have your views, either in person or by representative or by letter, as to the provisions of the proposed Bill, if you care to present your views at the next meeting of the Committee, which will be held at the headquarters, southwest corner of Baltimore and Howard streets, on April 20th, 1917, at 3 o'clock P. M. The Committee desire to have the provisions of the Bill fair to all parties who may be affected by it, and, therefore, desire to hear from all parties who wish to present their views.

Very truly yours,

HENRY D. HARLAN, Chairman."

On the same day a similar letter was sent to the County Commissioners of Anne Arundel County and to the County Commissioners of Baltimore County.

PROVISIONS OF THE CONSTITUTION FIXING THE REPRESENTATION OF EACH COUNTY AND OF BALTIMORE CITY IN THE LEGISLATURE.

"ARTICLE III."

"SEC. 2. The City of Baltimore shall be divided into four legislative districts, as near as may be, of equal population and of contiguous territory, and each of said legislative districts of Baltimore City, as they may from time to time be laid out, in accordance with the provisions hereof, and each county in the State, shall be entitled to one Senator, who shall be elected by the qualified voters of the said legislative districts of Baltimore City, and of the counties of the State, respectively, and shall serve for four years from the date of his election, subject to the classification of Senators hereafter provided for."

"SEC. 4. As soon as may be, after the taking and publish-

ing of the National Census of 1900, or after the enumeration of the population of this State, under the authority hereof, there shall be an apportionment of representation in the House of Delegates, to be made on the following basis, to wit: Each of the several counties of the State, having a population of eighteen thousand souls or less, shall be entitled to two delegates; and every county having a population of over eighteen thousand and less than twenty-eight thousand souls, shall be entitled to three delegates; and every county having a population of twenty-eight thousand and less than forty thousand souls, shall be entitled to four delegates; and every county having a population of forty thousand and less than fifty-five thousand souls, shall be entitled to five delegates; and every county having a population of fifty-five thousand souls and upwards, shall be entitled to six delegates and no more; and each of the Legislative Districts of the City of Baltimore shall be entitled to the number of delegates to which the largest county shall or may be entitled under the aforegoing apportionment, and the General Assembly shall have the power to provide by law, from time to time, for altering and changing the boundaries of the existing Legislative Districts of the City of Baltimore, so as to make them as near as may be of equal population; but said district shall always consist of contiguous territory."

PROVISIONS OF CONSTITUTION GOVERNING ANY CHANGE IN REPRESENTATION IN THE LEGISLATURE.

"ARTICLE XIV."

"AMENDMENTS TO THE CONSTITUTION."

"SECTION 1. The General Assembly may propose Amendments to this Constitution; provided that each Amendment shall be embraced in a separate Bill, embodying the Article or Section, as the same will stand when amended and passed by three-fifths of all the members elected to each of the two Houses, by yeas and nays, to be entered on the Journals with the proposed Amendment. The Bill or Bills proposing amendment or amendments shall be published by order of the Governor, in at least

two newspapers in each County, where so many may be published, and where not more than one may be published, then in that newspaper, and in three newspapers published in the City of Baltimore, one of which shall be in the German language, once a week for at least three months preceding the next ensuing general election, at which the proposed amendment or amendments shall be submitted, in a form to be prescribed by the General Assembly, to the qualified voters of the State for adoption or rejection. The votes cast for and against said proposed amendment or amendments, severally, shall be returned to the Governor, in the manner prescribed in other cases, and if it shall appear to the Governor that a majority of votes cast at said election on said amendment or amendments, severally, were cast in favor thereof, the Governor shall by his proclomation, declare the said amendment or amendments having received said majority of votes, to have been adopted by the people of Maryland as part of the Constitution thereof, and thenceforth said amendment or amendments shall be part of the said Constitution. When two or more amendments shall be submitted in manner aforesaid, to the voters of this State at the same election, they shall be so submitted as that each amendment shall be voted on separately."

CITY EXTENSION WILL NOT GIVE CITY MORE POWER.

(From the Wicomico News of July 26, 1917.)

The extension of the limits of Baltimore City as proposed by the bill of the Non-Partisan Greater Baltimore Extension League will give Baltimore City about 75,000 more population and thus prevent the chief city of our State from falling to tenth or twelfth place in the census of 1920. But more population does not mean more power. More power could come only from increased representation in the Legislature. Representation in the Legislature is fixed by the Constitution and cannot be increased except by amendment of the Constitution. By Section 2 of Article 3 of the Constitution, Baltimore City is divided into four legislative districts and each district is given one senator. By Section 4 of Article 3 each legislative district is given the

same number of delegates as the larger counties, and by the same section the largest counties, that is, counties having a population of 55,000 or more, are given six. Baltimore City will have four senators, as it now has, and no more, and twenty-four members of the House of Delegates, which it now has, and no more, and the counties will have 23 senators and 77 delegates, just as they now have. Does anybody really fear that the city will dominate the Senate with four senators out of 27, or that the city will dominate the House with 24 members out of 101? The city's representation cannot be increased, either in the Legislature or the judiciary, except by an amendment of the Constitution. The Constitution cannot be amended except by an Act which passes the Legislature by a three-fifths vote in both Houses, and is then ratified by the people, or by a Constitutional Convention, and in a Constitutional Convention the city would have the same representation which it has in the Legislature. Neither can the city's representation in a State Convention of either party be increased without an Act of the Legislature. Nor will the extension of the city's limits have any effect on State elections. The voters in the territory to be added to the city will be the same men after they are brought within the city as before and will vote the same way in State elections, in the city as they would if left out of the city.

ANNEXATION AND CITY REPRESENTATION.

(Editorial in Belair Times of October 12, 1917.)

There is an impression that if the Annexation Bill becomes a law the City of Baltimore will have increased membership and power in the Senate and House of Delegates of Maryland. This impression is erroneous. The Constitution of the State provides that the Senate shall be composed of one Senator from each county and Legislative district of the city, twenty-seven in all, and that the House of Delegates shall consist of a certain number prorated according to the population of the counties and arbitrarily fixed for Baltimore City, namely, twenty-four. Therefore, the city's representation is composed of four members of the Senate (out of 27) and twenty-four members of the House of Delegates (out of 102). This condition exists in obedience

to the Constitution of the State, and cannot be changed except by a Constitutional amendment. In order that this be done, it is necessary that such amendment be proposed by a three-fifths majority of the Senate and the House of Delegates, to be thereafter ratified by the voters of the State at the polls, and in light of the small representation of the city as it now exists or as it may be extended, there is no danger that a proposition to enlarge the membership of the city in the General Assembly could ever be proposed without a large part of the county members concurring. If the membership of the city is ever increased, annexation or no annexation, the power must come from the counties. Annexation does not mean increased representation for the city.

PROVISION OF THE CONSTITUTION RELATING TO CHANGING COUNTY LINES.

The Constitution of Maryland, which may be found printed in the first part of Bagby's Code, consists of fifteen articles, dealing with the following subjects:

Article	I.	Elective Franchise.
"	II.	Executive Department.
"	III.	Legislative Department.
"	IV.	Judiciary Department.
"	V.	Attorney General and State's Attorney.
"	VI.	Treasury Department.
"	VII.	Sundry Officers. County Commissioners. Surveyor. State Librarian. Commissioner of the Land Office. Wreck Master.
"	VIII.	Education.
"	IX.	Militia and Military Affairs.
"	X.	Labor and Agriculture.
"	XI.	City of Baltimore.
"	XII.	Public Works.
"	XIII.	New Counties.
"	XIV.	Amendments to the Constitution.
"	XV.	Miscellaneous.

The provision of the Constitution which came under consideration, and which the Court of Appeals decided did not apply

to an extension of the limits of Baltimore City, is not found in Article XI, dealing with the "City of Baltimore," but is found in Section 1 of Article XIII, title "New Counties." The whole of said Section 1 is as follows:

"SECTION 1. The General Assembly may provide, by law, for organizing new Counties, locating and removing county seats, and changing county lines; but no new county shall be organized without the consent of the majority of the legal voters residing within the limits proposed to be formed into said new county; and whenever a new county shall be proposed to be formed out of portions of two or more counties, the consent of a majority of the legal voters of such part of each of said counties, respectively, shall be required; nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the district which, under said proposed change, would form a part of a county different from that to which it belonged prior to said change; and no new county shall contain less than four hundred square miles, nor less than ten thousand white inhabitants; nor shall any change be made in the limits of any county, whereby the population of said county would be reduced to less than ten thousand white inhabitants, or its territory reduced to less than four hundred square miles."

DECISION OF THE COURT OF APPEALS CONSTRUING SECTION 1 OF ARTICLE XIII OF THE CONSTITUTION.

The validity of the Annexation Act of 1888 was attacked on two grounds, as stated in the opinion of the Court, and the opinion of the Court discusses both grounds.

The following is all that the Court said on the subject of change of county lines. The remainder of the opinion, which related to the taxing feature of Section 19 of the Act is omitted.

The Court of Appeals said, in Daly vs. Morgan, 69 Md. 463-467:

"The main questions arising upon the construction of this Act are: First, the constitutional power of the Legislature to

extend the limits of Baltimore City, by including therein parts of Baltimore County.

"And second, its power to discriminate in the rates of assessment and taxation, for city purposes, as between property within the districts annexed under the provisions of the Act, and property within the former limits of the city.

"The power of the Legislature to extend the limits of a city, by including therein parts of the county adjoining, when the city itself is a part of the county, is not and cannot be questioned. It is contended, however, that Baltimore City, being a separate and independent territorial division of the State, and not a part of Baltimore County, the Legislature has no power to change the lines of the county by annexing part of its territory to the city. And in support of this contention, the appellant relies entirely upon Art. 13, Sec. 1, of the Constitution. After providing for the organization of new counties, and for locating county seats, this section further provides: 'Nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the district which, under said proposed change, would form a part of a county different from that to which it belonged prior to said change.' It does not say, as has been argued, that the lines of a county shall not be changed except it be for the purpose of annexing parts of one county to another county. It merely provides that when the lines of a county are to be changed for this purpose, it must be done with the consent of a majority of the voters residing within the district to be annexed. The object, and sole object, of this provision of Section 1, was to provide for the annexation of parts of one county to another. The entire section, in fact, and the article in which it is to be found, deals exclusively with the organization of 'new counties,' 'the location of county seats,' and the mode by which parts of one county may be annexed to another county, and the limitation imposed upon the legislative power is in respect of these matters and these only.

"Counties are political divisions of the State, organized with a view to the general policy of the State, and the functions and powers exercised by them have reference mainly to such policy. Besides, their representation in the General Assembly is fixed by

the Constitution, and we can understand why it was deemed proper to make some provision in regard to the organization of counties, and the annexation of parts of one county to another. Towns and cities, however, are ordinarily chartered at the instance, and mainly with reference to the interest, convenience and advantage, of persons residing within the particular locality incorporated. They are chartered by the Legislature, and their boundaries are fixed by it, and the power to extend them, whenever in its judgment the public interests require it, has been exercised by the Legislature from the earliest days of the colony. No reason has been suggested why the Constitution should prohibit the exercise of this power, and it would seem strange, that it should provide for the annexation of parts of one county to another, and deny to the Legislature the power to extend the limits of a city, by including therein parts of an adjoining county, even though such county should be a separate and independent territorial division of the State. No one knew better than the framers of the Constitution of 1867, that the time must come, and that not far distant, when the extension of the limits of a great city like Baltimore would be absolutely necessary to its proper growth and development. And if they meant to deny the exercise of this power by the Legislature, and to say that its limits as then defined by its charter, should for all time remain the same, it is but reasonable to presume that this intention would have been declared in plain and explicit terms. So far from being expressly declared, there is nothing either in the language or terms of this section from which such an intention can be inferred. The Legislature has, therefore, in our opinion, the same power now which it has always exercised, to extend the limits of Baltimore City by including therein parts of Baltimore County, and this, too, with or without the consent of a majority of the voters residing within the districts annexed."

NEITHER THE CONSTITUTION, NOR JUSTICE, NOR FAIRNESS REQUIRES REFERENDUM TO VOTERS IN TERRITORY TO BE ADDED.

(Opinion of Judge Henry D. Harlan, as quoted in The Sun of September 17, 1917.)

"JUST"—JUDGE HARLAN

Calls Annexation Without Referendum Right As Well as Legal.

LEGISLATURE'S DUTY TO CITY

Former Head Of Supreme Bench Emphasizes Rightfulness Of Direct Passage Of Bill.

Responding to a request from THE SUN, former Chief Judge Henry D. Harlan, of the Supreme Bench, yesterday made a remarkably clear statement of the justice of extending the limits of Baltimore city without a referendum to the people in the territory to be annexed.

It has been established to all open-minded people, by the opinions of a large number of the ablest lawyers in the State, that it would be entirely *legal* to annex without a referendum, but THE SUN desired an expression from a man of Judge Harlan's mind and character, as to whether it would be *right*. Every citizen of the State should read what he had to say.

His statement follows:

"When I was first asked to serve as a member of the committee of the Non-Partisan Greater Baltimore Extension League, to prepare the bill for extending the city limits, I approached the question of whether or not the Constitution required such a bill to be submitted to the voters in the territory to be annexed with an open mind, and, after a careful consideration of that question, I have no doubt that the Legislature has the power to extend the limits of Baltimore city without a referendum. Nothing is more firmly settled than the principle that the Legislature of a state

possesses every power of government which the people of the state themselves possess, except such as are forbidden to the Legislature by the Constitution. There is certainly no provision of the Maryland Constitution limiting the power of the Legislature to enlarge the boundaries of Baltimore city or requiring an act extending the city limits to be submitted to the voters in the territory to be annexed. The most that those who argue in favor of a referendum claim is that the word 'county' in Article 13 of the Constitution should be construed to mean 'Baltimore city,' and thus, by inference or construction, apply to the extension of the city limits the limitation which the Constitution puts on the power of the Legislature to take part of one county and put it in another county. This limitation, in terms, applies only to transferring a part of one county to another county; it occurs in the article of the Constitution which deals only with counties, and, in my judgment, the Court of Appeals has decided—and decided rightly—in the case of Daly vs. Morgan (69 Maryland Reports, page 461) that the word 'county' in this article means 'county,' and does not mean 'city,' and that there is no limitation in the Constitution on the power of the Legislature to extend the limits of Baltimore city.

IS LEGISLATURE'S DUTY.

"On this question nothing could be added to the very full and convincing opinions which have been given by Messrs. William L. Marbury, Joseph C. France, George Whitelock, George R. Gaither, Alexander R. Hagner and Richard Dallam, which are published in the pamphlet issued by the Non-Partisan Greater Baltimore Extension League, which contains the draft of the bill and the report of the committee. But I am asked by THE SUN to give my views as to the rightfulness of the exercise of this power by the Legislature. In my judgment it is not only *right* for the Legislature to extend the limits of Baltimore city without any referendum—if, in its judgment, the public welfare demands the extension—but it is its *duty* to do so. The duty rests upon the Legislature to determine when the progress of the city, and the welfare of the State, demand an extension of the city limits, and it would be shirking its duty for the Legislature to submit the

decision of that question to a majority of the voters in the territory proposed to be annexed. It would be like a judge submitting the decision of a case which was before him to one of the parties to the case. When we want a fair decision of any question we try to get an impartial, disinterested tribunal; we never think of submitting the question to one of the parties interested for decision.

"Wheher it is right or wrong, fair or unfair, to add to Baltimore city the portions of Baltimore and Anne Arundel counties as proposed in the league bill, and upon the terms mentioned in that bill, are questions which could not be affected by a referendum; if it is right, it would not be made wrong because a majority of the voters in the territory voted against it; if it is unfair, it would not be made fair because a majority of the voters in the territory voted in favor of it.

UNBROKEN PRACTICE.

"Every time a city has been incorporated or its limits extended in the history of the State, the people in the city limits have been subjected to a city government and city taxes. Belair, Havre de Grace, Elkton, Chestertown, Centreville, Easton, Crisfield, Cambridge, Salisbury, Ocean City, Berlin, Annapolis, Laurel, Ellicott City, Westminster, Frederick, Hagerstown, Rockville, Cumberland, Frostburg, Oakland and other cities of the State have been incorporated and their limits extended from time to time without any referendum to the voters in the territory thus subjected to city government and city taxes, and the Legislature has five times extended the limits of Baltimore city without any referendum and only once with a referendum. So that, if there is anything wrong in subjecting people to a city government and city taxes without their consent or without the consent of a majority of them, it has never been thought so, because it has been the almost unbroken practice of the Legislature to do that very thing.

NO VIOLATION OF PRINCIPLE.

"In fact this does not violate the principle of government by consent of the governed, because when people settle on the edge of a growing town or city they must be presumed to know that

they are liable to be taken into the city by the Legislature whenever the Legislature thinks that the public welfare would be served by doing so. In the case of Daly vs. Morgan (69 Maryland Reports, page 461) the Court of Appeals refers to the fact that everyone must anticipate the extension of the limits of a growing city in these words:

"Those who locate near the city limits are bound to know that the time may come when the Legislature will extend the limits and take them in. No principle of right or justice or fairness places in their hands the power to stop the progress and development of the city, especially in view of the fact that the large majority of them have located near the city for the purpose of getting the benefit of transacting business or securing employment or following their profession in the city.

"They would be too apt to view the question from the standpoint of their personal interests, whereas it is the duty of the Legislature to decide the question from the standpoint of the public welfare."

OPINION OF ATTORNEY-GENERAL ALBERT C. RITCHIE.

A republication of the opinion expressed by Attorney-General Ritchie, in an interview of January 8, 1917, is pertinent because Mr. Ritchie not only shows that the Court of Appeals have decided the legal question, but he gives an excellent reason why there ought not to be any referendum to the voters in the territory to be added. Attorney-General Ritchie said:

"I do not think, however, that the question should be submitted to the vote of the counties or the districts affected. The extension is needed because the interests of a city of 600,000 inhabitants—and, therefore, the interests of the whole State—require it. Even private property can be taken, for just compensation, without the owner's consent when the public interests require it. ALL THE MORE SHOULD THE STATE, WHEN THE PUBLIC INTERESTS REQUIRE THE EXTENSION OF THE LIMITS OF ITS GREATEST CITY, BE FREE TO GRANT THAT EXTENSION ON THE TERMS WHICH

THE STATE DEEMS FAIR, WITHOUT A REFERENDUM TO THE COMPARATIVELY SMALL NUMBER OF CITIZENS WHO LIVE IN THE LOCALITIES AFFECTED. IT IS NOT RIGHT THAT A STATE-WIDE NEED, AS I CONSIDER THE EXTENSION OF BALTIMORE'S LIMITS TO BE, SHOULD RUN THE CHANCE OF DEFEAT BECAUSE OF POSSIBLE OPPOSITION FROM THE VOTERS IN THE DISTRICTS TO BE ANNEXED OR IN THE COUNTIES OF WHICH THESE DISTRICTS NOW FORM PART."

LEGISLATURE HAS POWER.

"I have no doubt of the power of the Legislature to extend the limits of Baltimore City without referendum. I examined this question when the last Legislature was in session, and the conclusion I then reached, and which I still hold, is based upon a thorough examination of the records, arguments and opinions in the case of Daly vs. Morgan. It is the same opinion that was then publicly expressed by a number of distinguished members of the bar who examined the question, and it is that in which the Court of Appeals, in Daly vs. Morgan, not as *obiter dictum,* but definitely and deliberately, decided that a vote of the people is not necessary for the extension of Baltimore's limits. I regard this as settled by the Court of Appeals."

To this may be added the opinion of HON. JOHN V. L. FINDLAY, former City Counselor and Member of Congress and for many years one of the leading lawyers and citizens of the State. This opinion was given by Mr. Findlay shortly after the passage of the Act of 1888.

Mr. Findlay not only gives it as his own opinion, but quotes COL. CHARLES MARSHALL to the same effect, and his opinion also contains the interesting prediction that the Act of 1888 would be the last one which the Legislature would pass with a referendum.

OPINION OF HON. J. V. L. FINDLAY.

"I agree fully that the belt could have been annexed by a legislative act without a popular vote. I don't believe that Article 13 of the Constitution, headed New Counties, and providing the means by which they may be established, has anything to do with or is any limitation upon the power of the Legislature to establish or change the boundaries of the cities in the State. Nor is it altogether fair, that when provision is made for taking a vote, that the city should be left out as it has been in this case.

* * * * * *

"The learned gentleman who has prepared an adverse opinion to the Act seems to concede that with no discrimination as to taxes the Belt could have been constitutionally annexed without a popular vote and by a mere exertion of the legislative will. In that opinion I entirely concur; but the mere submission of the question to a vote does not render the Act unconstitutional.

* * * * * *

"The Legislature, I think, could have submitted the question to a vote without reference to the provision in the Constitution. I say this to meet what appears to have been urged as an objection to the validity of the bill based upon the proposition that there is no authority to be found in the Constitution authorizing the submission of the question of city extension or change of boundary to be voted on by the people affected by the change; that this provision in the Thirteenth Article refers to the COUNTIES merely, and that by reason of the mistake in applying it to the city the Act must fail. Concede its non-application to the city, yet still I think the Legislature had the power of submission as a question quite independent of constitutional authority. I also agree fully, as I have stated, that annexation could have been accomplished without the intervention of a vote exactly as the addition to Richmond was made in the case cited, and without any remedial provisions in mitigation of taxes. I understand this to be the clear opinion of Mr. Marshall, and is seems to me that the opponents of annexation residing in the Belt can derive but cold comfort from it. If annexation is voted down under this Act under the influence of idle doubts as to its validity, I will venture to predict that it is the last time the question

will be submitted for popular approval on any terms. This will make the second time that the experiment of taking a vote has failed, and it is not likely, in view of such experience, that it will be repeated."

OPINION OF WILLIAM L. MARBURY.

March 13th, 1916.

Hon. James H. Preston,
Mayor of Baltimore City,
City Hall, City.

Dear Sir: I am in receipt of your request for an opinion upon the following questions:

First—Whether the Constitution of Maryland requires an Act extending the limits of Baltimore City to be submitted to the voters in the territory to be annexed for their approval or rejection.

Second—Whether any principle of justice or liberty requires such submission.

Third—What has been the legislative practice on this subject in the State?

Fourth—Whether the Legislature has the same power to annex part of Anne Arundel County as it has to annex a part of Baltimore County to Baltimore City.

(1) Your first question is answered in the negative by the decision of the Court of Appeals of Maryland in the case of *Daly vs. Morgan*, 69 Md. 466.

In that case the Court had under consideration and determined the constitutionality of the Act of 1888, Chapter 98, entitled "An Act to extend the limits of Baltimore City by including therein parts of Baltimore County."

I quote from the opinion of the majority of the Court, and that opinion, of course, and not the minority opinion, is the law of this State.

> "The main questions arising upon the construction of this Act are: First, the constitutional power of the Legislature to extend the limits of Baltimore City by including therein parts of Baltimore County. * * *

"The power of the Legislature to extend the limits of a city by including therein parts of the county adjoining, when the city itself is a part of the county, is not and cannot be questioned. It is contended, however, that Baltimore City being a separate and independent territorial division of the State, and not a part of Baltimore County, the Legislature has no power to change the lines of the county by annexing part of its territory to the city. And in support of this contention, the appellant relies entirely upon Article 13, Sec. 1, of the Constitution. After providing for the organization of new counties, and for locating county seats, this section further provides: 'Nor shall the lines of any county be changed without the consent of a mapority of the legal voters residing within the district, which under said proposed change, would form a part of a county different from that to which it belonged prior to said change.' It does not say, as has been argued, that the lines of a county shall not be changed *except it be for the purpose* of annexing parts of one county to another county. It merely provides that when the lines of a county are to be changed for this purpose, it must be done with the consent of a majority of the voters residing within the district to be annexed. The object, and sole object, of this provision of Section 1 was to provide for the annexation of parts of one county to another. The entire section in fact, and the article in which it is to be found, deals exclusively with the organization of *'new counties,' 'the location of county seats' and the mode* by which parts of one county may be annexed to another county, and the limitation imposed upon the legislative power is in respect of these matters and these only.

"Counties are political divisions of the State, organized with a view to the general policy of the State and the functions and powers exercised by them have reference mainly to such policy. Besides, their representation in the General Assembly is fixed by the Constitution, and we can understand why it was deemed proper to make some provision in regard to the organization of counties, and the annexation of parts of one county to another. Towns and cities, however, are ordinarily chartered at the instance, and mainly with reference to the interest, convenience and advantage, of persons residing within the particular locality incorporated. They are chartered by the Legislature, and their boundaries are fixed by it, and the power to extend them, whenever in its judgment the public interests require it, has been exercised by the Legis-

lature from the earliest days of the colony. No reason has been suggested why the Constitution should prohibit the exercise of this power, and it would seem strange, that it should provide for the annexation of parts of one county to another, and deny to the Legislature the power to extend the limits of a city, by including therein parts of an adjoining county, even though such county should be a separate and independent territorial division of the State. No one knew better than the framers of the Constitution of 1867 that the time must come, and that not far distant, when the extension of the limits of a great city like Baltimore would be absolutely necessary to its proper growth and development. And if they meant to deny the exercise of this power by the Legislature, and to say that its limits as then defined by its charter should for all time remain the same, it is but reasonable to presume that this intention would have been declared in plain and explicit terms. So far from being expressly declared, there is nothing either in the language or terms of this section from which such an intention can be inferred. The Legislature has, therefore, in our opinion, the same power now which it has always exercised, to extend the limits of Baltimore City by including therein parts of Baltimore County, and this, too, *with or without the consent* of a majority of the voters residing within the districts annexed."

I have quoted thus fully from the opinion of the Court in the case referred to, for this reason:

It has been urged that inasmuch as the annexation Act of 1888, which was under consideration in that case, contained a provision for a referendum, and was not to become a law until approved by the majority of the voters in the district to be annexed, the question as to whether without such referendum the Act would have been valid was not necessarily involved, and that therefore the opinion of the Court on that question was merely *obiter dictum*, and for that rason not a binding decision.

But I think this would be an entirely erroneous view of that case.

Th equestion as to whether or not the Legislature had power to annex a part of a county to the City of Baltimore was one which was necessarily involved, and one which the Court was compelled to decide.

It was contended on the part of the taxpayer in that case that the only authority which the Legislature could have for

annexing any part of a county to Baltimore City would have to be found in Section 1 of Article 11 of the Constitution of Maryland, which provides:

> "nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the district, which, under said proposed change, would form a part of a county different from that to which it belonged prior to said change."

And it was argued that this provision of the Constitution had reference to counties only and not to the City of Baltimore.

In order to meet this contention, the Court had to first determine whether the section quoted from did or did not apply to the the City of Baltimore; in other words, whether the word "county," as used in this section included the City of Baltimore; and the Court did decide that question, the majority being of the opinion, and so deciding, that this section had no application to the City of Baltimore at all, but that the Legislature nevertheless had full power and authority to annex any part of a county to the city with or without a referendum, for the reason that there is nothing in the Constitution of the State to forbid the exercise of such a power, and the Legislature of a State has power to enact any and all laws save such as are prohibited by some provision either of the State Constitution or the Constitution of the United States.

Indeed, even if the opinion of the Court on this question in *Daly vs. Morgan* could be regarded as not having been necessary to the decision of that case, it would nevertheless be a binding decision in this State, for the reason that it was not what is commonly known as *obiter dictum,* but a deliberate judicial determination, or what is sometimes called a judicial *dictum.*

Whatever may be the view taken by courts of other jurisdictions, there is no doubt but that such a decision is binding in this State.

In the case of *Alexander vs. Worthington,* 5 Md. 471, at pages 488-89, our Court of Appeals, criticising and refusing to follow a decision of the Supreme Court of the United States, which suggested a different view, says:

> "In Maryland it is usual to limit the judgment to the question of right involved in the issue. ***But where a question of general interest*** is supposed to be involved and is fully dis-

> cussed and submitted by counsel, the court frequently decides the question with a view to *settle the law*, and it has never been supposed that a decision made under such circumstances could be deprived of its authority by showing that it was not called for by the record. The cases of *Richardson vs. Jones*, 3 Gill & Johns, 163; *Carter vs. Dennison*, 7 Gill 157, amongst others, will establish this practice. All that is necessary in Maryland to render the decision of the Court of Appeals authoritative on any point decided is to show there was an application of the judicial mind to the precise question adjudged and this, we apprehend, is the rule elsewhere."

That the question of whether or not the Legislature had the constitutional power to extend the limits of Baltimore City without the consent of the majority of the voters in the district to be annexed was a question of "general interest" will not be denied.

That there was "an application of the judicial mind" to that precise question will, I think, sufficiently appear from the quotation from the opinion in *Daly vs. Morgan*, above given.

The case of *Alexander vs. Worthington* is followed on this point by the case of *Michael vs. Morey*, 26 Md. 239.

(2) I do not think it can be maintained that the extension by the Legislature of the corporate limits of the city, without waiting for the approval of the inhabitants of the district to be annexed, violates any principle of justice or liberty.

As the Court of Appeals said in the opinion above quoted (*Daly vs. Morgan*):

> "No one knew better than the framers of the Constitution of 1867 that the time must come, and that not far distant, when the extension of the limits of a great city like Baltimer would be absolutely necessary for its proper growth and development."

If that be so, there can be no violation of liberty or any injustice on the part of the Legislature when it refuses to permit a small number of people in a contiguous territory to arbitrarily prevent an extension of a city's limits, which, in the judgment of the Legislature, is "absolutely necessary to its proper growth and development."

The Legislature is naturally in a better position to act with justice and impartiality than either the people of the district to be annexed or the people of the city desiring to annex it.

(3) With regard to what has been the legislative practice on this subject in Maryland, there can be no controversy.

The limits of Baltimore City have been several times extended by Act of the Legislature, without any referendum.

(4) There can be no question whatever that the Legislature has the same power to annex part of Anne Arundel County that it has to annex part of Baltimore County to Baltimore City.

I can find no reason whatever for doubting that the opinion in *Daly vs. Morgan* would have been the same if the territory to be annexed had been a part of Anne Arundel County instead of a part of Baltimore County.

Yours very truly,

W. L. MARBURY.

OPINION OF GEORGE WHITELOCK.

Baltimore, March 13th, 1916.

Hon. James H. Preston,
Mayor of Baltimore,
Baltimore, Md.

Dear Sir: I have this day concurred with several of my colleagues of the Baltimore Bar in advising you professionally that the General Assembly of Maryland has plenary power to extend the municipal limits of the City of Baltimore by mere legislative enactment, without referendum, to the voters resident in the territory to be annexed, and thus to add to the area of the city a part of either Baltimore or of Anne Arundel County, or parts of both of said counties; and further, that such a course would be perfectly constitutional, in entire conformity with precedent, and do no violence to any fundamental principle of liberty.

The reasons constraining me to these conclusions may be briefly summarized.

The constitutionality of an Act extending the limits of the City of Baltimore (Acts of 1888, Ch. 98, approved March 18, 1888) was decided by the Court of Appeals of Maryland on November 23, 1888, in the case of Daly vs. Morgan, 69 Md. 460.

The bill of complaint in that case had alleged that the law

was "null and void because the Constitution of Maryland gives no power to the Legislature to annex any of the territory of a county to the City of Baltimore." And the plaintiff, by his brief, had charged that the Constitution makes no provision whatever for an extension of the limits of Baltimore City, but provides only for a change of *county* lines and the formation of new *counties*.

The words of the Constitution in question (Art. 13, Sec. 1) are:

> "Nor shall the line of any county be changed without the consent of a majority of the legal voters residing within the district which, under said proposed change, would form a part of a county different from that to which it belonged prior to said change."

The Court of Appeals treated this section as inapplicable to the extension of the city, and as dealing only with the organization of new counties and the alteration of county lines, saying that towns and cities are chartered by the Legislature and their boundaries are fixed by it, and that the power to extend them, whenever in its judgment the public interests require it, has been exercised by the Legislature since the earliest days of the colony. And the Court, proceeding further, declared in express terms that: *"The Legislature has, therefore, in our opinion, the same power now which it has always exercised, to extend the limits of Baltimore City by including therein parts of Baltimore County, and this, too, with or without the consent of a majority of the voters residing within the districts annexed."*

It is true that the Act of 1888, Ch. 98, in fact provided for submission of the City's extension to the qualified voters residing within the belt of Baltimore County proposed to be annexed to the City, but the reasoning and conclusions of the Court in Daly vs. Morgan makes it perfectly plain that no such referendum is constitutionally necessary.

Inasmuch as Anne Arundel County is, like Baltimore County, a territorial division of the State separate and independent of Baltimore City, it follows that the Legislature possesses the same plenary power to annex to Baltimore City, without referendum, a portion of Anne Arundel County, as to annex to the City a portion of Baltimore County.

Reference to the status of the Province and the State shows

that many Acts of Assembly have extended the limits of municipalities as stated by the Court of Appeals in the case of Daly vs. Morgan.

If in the face of the historic and legal record, it be now asserted that any exigency of justice or of liberty requires the Legislature to provide a referendum in present conditions, it is entirely clear that the voters of the territory proposed to be annexed are not the only citizens of the State entitled to be consulted. All of the registered voters of the two counties affected by the change, as well as all of the voters of Baltimore City, have direct, material interest in the result of the enactment; and even though the voters of the rest of the State may not have such an interest it has been argued that they must nevertheless be consulted, because under a recent Constitutional amendment (Acts of 1914, Ch. 673), if there is any referendum at all, it must be to the voters of the entire State.

But the Legislature represents every portion of the State of Maryland, including the territory proposed to be annexed to the City of Baltimore, and no principle of justice or of liberty can require it to relinquish, in favor of the voters of a particular district, the exercise of its plenary power to establish and change the boundaries of the City, a mere political subdivision of the Legislature's own creation.

Yours very truly,

GEO. WHITELOCK.

OPINION OF JOSEPH C. FRANCE.

13th March, 1916.

S. S. Field, Esq.,
City Solicitor.

Dear Sir: Answering the question put for my opinion: I have re-read Daly vs. Morgan, 69 Md., and particularly the following language at page 466 (official edition): "The Legislature has, therefore, in our opinion, the same power now which it has always exercised, to extend the limits of Baltimore City by including therein parts of Baltimore County, and this, too, *with or without the consent* of a majority of the voters residing within

the districts annexed." The italics in this quotation are the Court's, and any careful reading of the case will show that the conclusion thus emphasized was a necessary consequence of the Court's decision and not merely an *obiter dictum*. My reasons are these:

I.

It is perfectly true that the Annexation Act of 1888, involved in Daly vs. Morgan, contained a referendum to the voters, and this has doubtless produced the impression that the words italicized were merely the passing remarks of the judge who wrote the opinion. But the fact is that, in calling the assent of the voters immaterial, the Court was stating an inevitable corollary of the point flatly decided.

II.

What was decided in Daly vs. Morgan? The Constitution (Article 13, Section 1, subtitle "New Counties") says: "Nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the district which, under said proposed change, would form a part of a county different from that to which it belonged prior to said change." The appellant, Daly, a resident of Baltimore County, was attacking the Annexation Act of 1888, and he contended that, by force of this constitutional provision, county lines can be changed *only* for the purpose of annexing parts of one county to another county; and *not* for the purpose of annexing parts of a county to a city. The question of referendum was involved only because it was imbedded in the larger and inclusive issue which was both raised and decided, namely: That the whole constitutional provision (including, therefore, the limitation on the otherwise plenary power of the Legislature to act *without* referendum) deals "exclusively with the organization of new counties, the location of county seats, and the modes by which parts of one county may be annexed to another county;" and has no reference to the erection or incorporation of county residents and territory into a city.

III.

Two of the seven judges (Alvey, C. J., and Bryan, J.) dissented. They agreed with the majority in upholding the Act of

1888; but they disagreed as to the principle involved. The appellant was contending that the purpose of the Constitution was to protect existing county lines and to forbid their disturbance, referendum or no referendum, except for the purpose of organizing a new county or of reapportioning territory between two counties. This contention the two minority judges met by saying that, in spite of its title and context, the provision of the Constitution was intended to include cities. The majority of the judges agreed with the appellant that the provision could not, in any fair interpretation, include cities; but, they decided, that the effect of this was not to prevent cities from expanding, as the appellant contended, but to take them *entirely out of the constitutional provision and its referendum limitation,* thereby leaving the case of city expansion to the plenary power of the Legislature. In the view of the majority the referendum provision in the Act of 1888 was immaterial and they so said. In the view of the minority the referendum provision was essential to the validity of the Act. But neither of the dissenting judges suggested, even faintly, that there was anything of *obiter dictum* in the opinion of the Court; and, certainly, the fact that the result could have been rested on a ground different from that taken by the majority of the Court, does not make the decision any the less of a precedent or place it in the category of *dicta.*

IV.

To illustrate my conclusion: Suppose a community which is bounded or even divided by the line between two counties; or by the line between Baltimore or Anne Arundel County and the City of Baltimore. I am bound to say that, under the Maryland law, as I understand it, such a community can, by legislative Act, be erected into a city or incorporated with an existing city without the consent of the inhabitants concerned. In the absence of a constitutional limitation, the power of the Legislature in this respect is plenary; and, certainly, Daly vs. Morgan decides that our constitutional limitation, providing for a referendum to the voters, has no application except to "the annexation of parts of one county to another" (69 Md. 464).

Yours very truly,

J. C. FRANCE.

OPINION OF GEORGE R. GAITHER.

Baltimore, March 13, 1916.

Hon. S. S. Field,
City Solicitor,
Court House, City.

My Dear Sir: In reply to your request for my opinion as to the right of the Legislature of Maryland to provide for the extension of the limits of the City of Baltimore without submitting the question to a vote of the people of the district proposed to be annexed, I beg to submit the following conclusions:

This question was so fully considered by the Court of Appeals in the case of Daly vs. Morgan, 69 Md. 460, in the year 1888, when the city limits were extended, that it can scarcely be considered an open question in this State. That opinion was delivered by Judge Robinson, afterwards Chief Judge of the Court of Appeals, and he emphasizes the right of the Legislature to extend the limits of the city *with or without the consent* of a majority of the voters residing within the districts annexed. This opinion was delivered by our Court of Appeals when it was composed of some of the ablest judges who have ever sat upon that bench, and it would scarcely seem probable that a decision which was concurred in by Judge Miller, Judge Robinson and Judge McSherry would be now considered as not of controlling authority.

The reasoning of the Court in this case is based upon the plain language of Section 1 of Article 13 of the Constitution, and the Court calls attention to the fact that the Act refers simply to "new counties, the location of county seats and the mode by which parts of one county may be annexed to another county." The Court then infers that the plain intent of the Legislature was to limit the powers of the Legislature as to the changing of county lines to the counties themselves, and that it could not have intended to include the City of Baltimore or to exclude the city from ever extending its boundaries. The City of Baltimore has been a political entity distinct from the counties since the Constitution of 1851, and it would have been a forced construction to conclude that the framers of the Constitution did

not consider that the needs of a growing city should be provided for by an addition to its territory. Moreover, the construction of the Constitution established by the Court of Appeals in the case referred to, is strengthened by a consideration of the many places in the present Constitution where reference is made to the "counties and Baltimore City." I find this reference in Article 1, Article 3, Article 4, Article 5 and Article 7—in fact, in every article which refers to the separate political entities composing the State, except Article 13, Section 1, which is the only one that limits the subject matter to the counties. It is a familiar rule in the construction of Constitutions that the use of special descriptive terms in certain parts of a Constitution indicates an intention to exclude such inclusive phrases in a section where a narrower description is set forth.

There can be no question of the right of the legislative branch of our State government to modify or change our political sub-divisions in any way which is not prohibited by the Constitution of the State. I am, therefore, clearly of the opinion that the Legislature can pass such an Annexation Act with or without submitting the question to a vote of the people of the district to be affected.

Very truly yours,
GEORGE R. GAITHER.

OPINION OF ALEXANDER R. HAGNER.

The Constitution of Maryland, Article 11, pertains exclusively to the government of the City of Baltimore, and there is no provision prohibiting the extension of its limits without submitting the same to the voters of the territory to be taken in.

By Article 13 of the Constitution no new counties can be formed, or the boundaries thereof changed without submitting the question by way of referendum. This article pertains exclusively to counties and bears in no way upon the extension of the limits of the City of Baltimore.

The limits of cities may be extended by the legislature without the consent of a majority of the inhabitants of the city or the part to be annexed.

Cheaney vs. Hooser, 48 Ky. 330.

The legislature may enlarge the territorial limits of a city without the consent of the inhabitants of the territory proposed to be added.

City of St. Louis vs. Allen, 13 Mo. 400.

Giboney vs. City of Cape Girardeau, 58 Mo. 141.

The General Assembly has power to extend the limits of an incorporated town without the consent and against the wishes of the citizens who live on or own land comprising the part to be annexed.

Manly vs. City of Raleigh, 57 N. C. 370.

The power of the legislature to fix or enlarge the corporate boundaries of municipalities has not been disputed.

4th Dillon (5th Ed.), Sec. 1395.

In the case of Kelly vs. Pittsburgh, 104 U. S., at pp. 80-81, the Court says (Justice Miller): "What portion of a state shall be within the limits of a city and be governed by its authority and its laws, has always been considered to be proper subject of legislation, how thickly or how sparsely settled is one of the matters within the legislative discretion. Whether territory shall be governed for local purposes by a county, a city or township organization is one of the most usual and ordinary subjects of state legislation."

Chapter 98 of the Acts of 1888 was an act extending the corporate limits of the City of Baltimore by including therein parts of Baltimore county, and the Court of Appeals of Maryland, in the case of Daly vs. Morgan, 69 Md. 460, says:

"The legislature has therefore, in our opinion, the same power now which it has always exercised, to extend the limits of Baltimore City by including therein parts of Baltimore County, and this, too, with or without the consent of a majority of the voters residing within the districts annexed."

In view of the above authorities and the clearness of the law upon the subject, I cannot see why it becomes necessary in order to extend the corporate limits of the City of Baltimore to submit the question to the voters, either of the City of Baltimore, or to those residing within the territory to be annexed to the city.

I was a member of the Platform Committee which framed the Republican platform and a member of the Convention which

adopted it. I do not believe that the Convention ever intended to endanger or retard the growth and development of the city. In my judgment the recital in the Republican platform "provided, however, that such extension shall not be made except with the consent of the majority of the qualified voters in the territory intended to be annexed, as required by the Constitution of the State," was *not the declaration of any Republican principle, but an erroneous opinion on a legal question; namely, the construction of the Constitution.* Inasmuch as this opinion expressed in the platform as to the requirements of the Constitution was a mistake, it seems to me that every Republican should feel bound to carry out the *main declaration of the Republican platform approving the efforts of the city to extend its limits so as to include its harbor and suburbs.* The exact language of this main declaration is: *"The importance of the City of Baltimore as the metropolis of Maryland and one of the great American seaports requires that it receive from the state government consideration favorable to its development, and we therefore approve of the efforts of the city to include within its limits its harbor and such of its suburbs as are essentially a part thereof."* This is *not* a declaration on a *legal* question, but a *statement of a party policy* on the subject of the action of the state towards its chief metropolis. The declaration is in favor of the extension of the city's limits. Senate Bill No. 135 provides for that and it seems to me that a vote against that bill is a vote against the policy declared by the Republican Convention on the subject.

In 1914 the Legislature without any referendum extended the limits of Hagerstown to double its former area, taking entire farms into the city's limits. While Hagerstown is in a county, still the principle is the same. County people were brought in under a city government with city taxes and restrictions without any vote on the question by them. What the Legislature can do for Hagerstown it can do for Baltimore. No referendum is necessary of an act extending the limits of Baltimore City, but certainly no one should object to a statewide referendum. A cardinal principle of the Republican party is that all government is *"of the people," and I can see no objection to permitting the people of Maryland themselves to decide on the important ques-*

tion relating to the growth and development of the metropolis of our State.

Chapter 98 of the Acts of 1888, which pertained to the extension of the corporate limits of the City of Baltimore, taking in part of Baltimore county, did, as a matter of fact, provide for the submission of the question to the voters of the territory to be taken in, but that was not necessary as the Legislature has ample power to extend the boundaries of the city with or without the consent of those residing in the territory to be annexed.

The condition of the City of Baltimore demands and requires that its limits be extended. It is only fair to the municipality and just to its inhabitants. Those living within the proposed territory to be annexed enjoy all the advantages of the city and pay none of its burdens. Therefore, upon the principle of equity and right, the City of Baltimore should most certainly be permitted by this Legislature to annex the territory so much needed for future development, without referendum. The question whether or not a referendum is necessary to annex the desired territory has been so well settled in the Daly and Morgan case above referred to, as well as the other references, that no one can contend, with any hope of success, that in this State the question of the annexation of the territory desired for the enlargement of the corporate limits of the City of Baltimore is not a power belonging exclusively to the Legislature of Maryland, and a referendum unnecessary.

ALEX. R. HAGNER.

March 25th, 1916.

OPINION OF RICHARD DALLAM, ESQ.

Prominent Lawyer and Chairman of Republican Central Committee of Harford County.

Belair, Md., March 17th, 1916.

Mr. S. S. Field, City Solicitor,
Baltimore, Md.

Dear Sir:

In reply to your inquiry, I beg to submit the following:

The Republican Platform adopted at the last State Convention contained the following provision:

> "The importance of the City of Baltimore as the metropolis of Maryland and one of the great American seaports requires that it receive from the State government consideration favorable to its development, and we therefore approve of the efforts of the city to include within its limits its harbor and such of its suburbs as are essentially a part thereof; provided, however, that such extension shall not be made except with the consent of the majority of the qualified voters in the territory intended to be annexed, as required by the Constitution of the State."

This statement of party policy contains an express approval of the efforts of the City of Baltimore to enlarge its boundaries by taking in the harbor, and such of the suburbs as are essentially a part of the city.

The Convention, thinking that Section 1, or Article 13 of the Constitution of Maryland applied to the extension of Baltimore City, added to its approval of City extension the proviso that the extension be made only with the consent of the majority of the qualified voters in the territory intended to be annexed.

The proviso in the platform plank cannot be construed as in any way modifying or limiting the party's approval of the policy of City extension. The proviso is merely a warning that no such extension shall be made without fully complying with the provisions of the Constitution applicable thereto.

The Constitutional provision which the author of the platform plank evidently had in mind when the resolution was written is Section 1 of Article 13 of the Constitution of Maryland, and reads as follows:

> "Section 1. The General Assembly may provide, by law, for organizing new Counties, locating and removing county seats, and changing county lines; but no new county shall be organized without the consent of the majority of the legal voters residing within the limits proposed to be formed into said new county; and whenever a new county shall be proposed to be formed out of portions of two or more counties, the consent of a majority of the legal voters of such part of each of said counties, respectively, shall be required; nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the district, which under said proposed change, would form a part of a

county different from that to which it belonged, prior to said change; and no new county shall contain less than four hundred square miles, nor less than ten thousand white inhabitants; nor shall any change be made in the limits of any county, whereby the population of said county would be reduced to less than ten thousand white inhabitants, or its territory reduced to less than four hundred square miles."

This is the only provision in the Maryland Constitution which refers to the extension or alteration of the boundaries of political units.

The Court of Appeals of Maryland has decided in the case of Daly vs. Morgan, 69th Maryland 466, that this section of the Constitution does not apply to the extension of the limits of Baltimore City, but is applicable only to organizing new counties, or to changing the boundary lines between counties.

The decision of the Court is plain and explicit. In addition to this, the Legislature of Maryland has, on more than one occasion, enlarged the boundaries of Baltimore City without the consent of the voters within the territory intended to be annexed.

It is plain, therefore, that under the law as construed by the Court of Appeals, and under the precedents established by the Legislature, the proviso in the Republican platform providing for a referendum is without force and effect.

The Republican Party having expressed its approval of the policy of city extension, there is, in my opinion, no reason, legal, moral, or political, for any Republican member of the Maryland Legislature to hesitate to vote for a bill providing for reasonable extension of the city limits, without requiring the consent of a majority of the qualified voters in the territory intended to be annexed.

Very respectfully,

RICHARD DALLAM.

OPINIONS OF MESSRS. MARCHANT, MULLIKIN AND TAIT.

(From The Sun of October 12, 1917.)

The advertisement of the Baltimore County Non-Partisan Protective Committee appearing in the morning papers as the

opinion of the undersigned, relating to the alleged limitations upon the rights of the Legislature to extend the limits of Baltimore City without a referendum, is misleading.

We have never declared, and do not now believe, that a referendum to the voters of the territory affected is essential. On the contrary, we regard it perfectly clear that the Legislature has power to annex to Baltimore City a part of the territory of Baltimore and Anne Arundel Counties without a referendum.

ROLAND K. MARCHANT,
ADDISON E. MULLIKIN,
GALEN L. TAIT.

October 11, 1917.

SOME LAWYERS ON THE OTHER SIDE.

There never has been a proposition discussed before the public or the Courts, no matter how plain or clear, but that some lawyers could be found who would argue against it. Hence, it is not surprising that the Baltimore County Committee who are fighting City extension have succeeded in getting five lawyers to say that they think the Constitution requires a referendum to the voters in the territory to be annexed,—Mr. Guy W. Steele, of Westminster; Mr. S. A. Williams, of Belair; Mr. John D. Urie, of Chestertown, and Messrs. George R. Willis and O. F. Hershey, of Baltimore.

These opinions are based on two contentions:

(a) On the debates in the Constitutional Convention;

(b) On the contention that the decision of the Court of Appeals in the case of Daly vs. Morgan was *obiter dicta*.

(*a*)

The debates referred to by these lawyers were the debates in the Constitutional Convention *of 1864*, but the provision of the Constitution passed on by the Court of Appeals in Daly vs. Morgan was the provision as it stands in the Convention *of 1867*, and not the provision as it stood in the Convention of 1864.

Under the Constitution of 1864, the lines of a county could not be changed at all without a referendum to the voters "within the limits of the lines proposed to be changed"; under the Con-

stitution of 1867, the referendum is required only when the change of county lines is made for the purpose of taking people out of one *county* and putting them into another *county*. The language of the Constitution of 1864, Article 10, Section 1, is:

> " * * * Nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the limits of the lines proposed to be changed."

In the Constitution of 1867 the provision is (Article 13, Section 1):

> " * * * Nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the district, *which, under said proposed change, would form a part of a county different from that to which it belonged prior to said change.*"

The change is so marked that it must have been made for some purpose, and the only purpose which can be suggested is to exclude the changing of county lines which would be involved in extending the limits of Baltimore City.

Hence, the debates in the *Constitutional Convention of 1864* throw no light on the meaning of *the provision in the Constitution of 1867.*

(*b*)

OPINION OF COURT OF APPEALS NOT OBITER DICTA.

The opinion of the Court of Appeals that the Legislature had power to extend the limits of Baltimore City without a referendum was not *obiter dicta* because it was necessarily involved in one of the two points raised by the Bill and passed on by the Court, viz: Whether the word "county" in Article 1 of Section 13 meant "county," or whether it included also Baltimore City?

When the Court of Appeals decided that the word "county" in Section 1 of Article 13 meant "county," and did not mean Baltimore City, by so deciding they also necessarily decided that the limitation in Section 13 on the power of the Legislature applied to what it said, to changing a county line so as to put people out of one county into another. (See opinions of Marbury and France on this point).

POINT RAISED IN THE BILL.

The bill of complaint contained this allegation (Record, p. 2):

"The Act aforesaid is null and void, because the Constitution of Maryland gives no power to the Legislature of Maryland to annex any of the territory of a county to the City of Baltimore, nor does it empower said Legislature to make the annexation of said territory depend upon the majority of the votes cast at an election provided for by legislative enactment, and because the same violates the Declaration of Rights of Maryland, and of the Fourteenth Amendment of the Constitution of the United 1tates, in regard to the uniformity of taxation."

The same contention was made in the brief of W. Frank Mitchell, one of the counsel for Daly. He said (page 2):

"There is no provision in the Constitution providing for the extension of Baltimore City, but only for changing county lines and forming new counties."

OPINION OF COL. DAVID G. McINTOSH.

The same contention was made in the brief of Colonel McIntosh, also filed for Daly, who, in discussing the above quoted provision of Article 13 of the Constitution, said:

"This limitation upon the exercise of legislative power involves two propositions. First, the consent of those residing in the district proposed to be changed must be obtained; and, *second, the district so changed must form part of another county.*

"Baltimore County and the City of Baltimore, being separate and distinct municipal corporations for all government purposes, with distinct representation in the State and Federal Governments, it cannot be said that transferring a part of Baltimore County to Baltimore City it will in any sense remain a part of Baltimore County. By such an act the *county's* line will have to be changed.

"Taking that construction of the Constitution repeatedly announced to this Court, viz.: that the words used therein must be taken to mean what is usually construed by persons of ordinary intelligence, *it cannot be said* that the words 'form a part of a *county* different from that to which it belonged prior to said change' are synonymous with or in ordinary parlance mean the same as 'From part of *a city or*

Baltimore City different from that to which it belonged prior to said change.'

"The General Code has provided rules of interpretation as applicable to the body of laws impressed therein; and one of these rules provides that the word counties, *in the Code* shall be construed to include the City of Baltimore, unless such construction would be unreasonable, but that rule of interpretation established for the statute law has no application to this case in construing the language of the Constitution."

COURT OF APPEALS AGREED WITH COLONEL McINTOSH'S CONTENTION, BUT DISAGREED WITH HIS CONCLUSION.

From this reasoning Colonel McIntosh urged that, inasmuch as this section of the Constitution provided only for changing the lines of a county so as to throw a part of that county in another county, the Legislature had no power to change the lines of Baltimore county so as to throw a part of that county in the City of Baltimore, either with or without a referendum. The Court of Appeals agreed with Colonel McIntosh that the provision of Article 13 did not apply to extending the limits of Baltimore City so as to include part of Baltimore County, but ONLY APPLIED TO CHANGING A COUNTY LINE SO AS TO THROW PART OF ONE COUNTY INTO ANOTHER COUNTY, but they did not agree with Colonel McIntosh's conclusion. The Court of Appeals said that the proper conclusion was that as this provision of the Constitution did not apply to enlarging the limits of Baltimore City, and as there was no other provision in the Constitution which placed any limitation on the power of the Legislature to enlarge the boundaries of the City, the Legislature has full power to extend the City limits either with or without a referendum, as the Legislature might see fit.

OPINION OF COURT OF APPEALS.

The Court said, 69 Md. 466:

"The Legislature has, therefore, in our opinion, the same power now which it has always exercised, to extend the limits of Baltimore City by including therein parts of Baltimore County, and this, too, *with or without the consent* of a majority of the voters residing within the districts annexed."

PROVISION INTENDED TO PREVENT GERRYMANDERING.

The Court further pointed out that there was a reason why the Constitution might limit the power of the Legislature in regard to creating new counties or putting part of one county into another county, which did not apply to extending the limits of Baltimore City. (See the opinion, p. 465).

Everyone is familiar with the gerrymandering which is frequently done by State Legislatures for political purposes with regard to Congressional districts.

Under the Constitution, each county has one Senator, but the Members in the House depend on population. The framers of the Constitution knew that it might be perfectly possible, from time to time, to change the political complexion of the Legislature by skillful gerrymandering of county lines. For example, Baltimore county is very largely Democratic and Carroll is usually very close. If a fairly good slice of Democratic population was taken from Baltimore county and thrown into Carroll county, it would make both counties safely Democratic. In the same way the debatable county of Prince George might be made safely Republican by annexing a slice of Charles. The framers of the Constitution evidently wanted to put some check on the power of the Legislature to do this kind of gerrymandering.

REASON DOES NOT APPLY TO EXTENSION OF LIMITS OF BALTIMORE CITY.

No such result could occur from increasing the limits of Baltimore City, for the representation of Baltimore City in the Legislature is not regulated by population—it is fixed by the Constitution at a certain number—four in the Senate and twenty-four in the House, and would not be increased by any increase of the population of the city.

LIMITS OF BALTIMORE CITY EXTENDED TEN TIMES BY ACT OF THE LEGISLATURE WITHOUT A REFERENDUM.

By the Act of 1745, Chapter 9,
Act of 1747, Chapter 21,
Act of 1750, Chapter 11,

Act of 1753, Chapter 20,
Act of 1765, Chapter 2.
Act of 1766, Chapter 22,
Act of 1773, Chapter 4.
Act of 1781, Chapter 24.
Act of 1782, Chapter 8.
Act of 1816, Chapter 209.

Of the extension of 1816 The Sun Almanac of 1900, page 59, says:

> "In 1816 sixteen thousand or seventeen thousand inhabitants were added to the population by the Act of the Legislature and against the protest of a large majority of the people of both the City and the County."

After this extension Baltimore passed Philadelphia, thus becoming the second city of the country, and remained second until after 1850.

LIMITS OF OTHER CITIES EXTENDED WITHOUT A REFERENDUM.

The Sun Almanac of 1917, pages 105 and 106, gives the list of seventy-one incorporated towns and cities in Maryland.

In every one of these towns and cities people are subject to a city government and pay city taxes in addition to the county taxes and state taxes paid by persons outside of the limits. A great many of these cities and towns have had their limits extended by Acts of the Legislature since their first incorporation. So that, in round figures *the Legislature of Maryland has passed an hundred Acts putting people and territory under a city government and city taxes without asking the consent of the majority of the voters thus made subject to city government and city taxes.*

Some of the more recent Acts extending the limits of cities without a referendum are as follows:

Frederick City, by Acts of 1870, Chapter 314; 1892, Chapter 359; 1906, Chapter 550, and 1904, Chapter 93,
Cumberland, by Act of 1904, Chapter 642,
Annapolis, by Act of 1914, Chapter 155,
Hagerstown, by Act of 1914, Chapter 257,
Bladensburg, by Act of 1916, Chapter 66,
Easton, by Act of 1916, Chapter 615,

Ellicott City, by Act of 1867, Ch. 48, included territory from two counties, Howard and Baltimore,
Cambridge, by Act of 1882, Chapter 216,
Cambridge, by Act of 1892, Chapter 487,
Centreville, by Act of 1888, Chapter 368,
Chestertown, by Act of 1888, Chapter 227,
Crisfield, by Act of 1892, Chapter 493,
Denton, by Act of 1902, Chapter 447,
Elkton, by Act of 1896, Chapter 463,
Oakland, by Act of 1914, Chapter 63,
Poolsville, by Act of 1894, Chapter 327,
Salisbury, by Act of 1900, Chapter 158,
St. Michaels, by Act of 1894, Chapter 603.

By the Act of 1870, Chapter 314, the limits of Frederick City were extended, without any referendum, so as to include, among other new territory, a farm belonging to Joseph Groff. The Act made the property in the new territory subject to the *full city tax rate* in addition to the county tax rate. Mr. Groff objected. He said he did not want to be in Frederick City; that it was a violation of the principle of Home Rule, taking him into Frederick City without his consent; that he did not get any benefit from the city government. In his brief, his counsel said (Groff vs. Frederick City, 44 Md. 71):

> "There was no necessity to extend the taxable limits of Frederick, for the simple reason that there was ample room within the old limits for double the present population.
>
> "No new streets, lanes or alleys were or are needed, and if they were, there was ample room within the old limits for them. * * * The people living within the annexed territory have derived no advantages from such annexation. They have received no benefit from being compelled to pay city taxes, but, on the contrary, the value of their property has been depreciated thereby."

But the Court of Appeals dismissed Mr. Groff's bill, and held the Act valid, saying (44 Md. 78):

> "That the Legislature had the power to pass the Act is equally clear. The Legislature has the power to create municipal corporations, to amend their charters, enlarge or diminish their powers, extend or limit their boundaries, consolidate two or more into one, overrule their legislative action whenever it is deemed unwise, impolitic or unjust, and even abolish them altogether, in the legislative discretion."

PROVISIONS OF BILL FOR A GREATER BALTIMORE.

BOUNDARIES.

The boundary lines provided in the Non-Partisan Greater Baltimore Extension League Bill were selected after careful consideration, with a view of including within the limits of the City of Baltimore:

(a) The overflow population from Baltimore City as distinguished from distinctly suburban settlements.

(b) Unimproved land near to Baltimore City, sufficient to provide for the growth of the city for a reasonable time in the future; and

(c) The territory needed for a great development of manufacturing and shipping.

The north, east and west boundary lines follow the points of the compass, the southern line has several angles, so as to take in the territory specially suited for manufacturing development and avoid taking in a large amount of farmland property.

Beginning at the center of Park Heights avenue and Slade avenue, about one-half mile south of Pikesville, the west line runs due south to the center of Frederick road, thence the south line runs straight to the intersection of the Annapolis and Pumphrey roads, just south of Brooklyn, thence nearly east to a point 1,000 feet east of Hawkins Point, and from that point the east line runs due north to the intersection with the north line, running due east from the place of beginning.

These lines include nearly all the developments which are built out continuously from the present city limits; Canton, Highlandtown, Govans, Roland Park, Mount Washington, Arlington, Forest Park, Howard Park, Windsor Hills, Ten Hills, Irvington, Westport and Brooklyn at the end of the bridge over the Patapsco; but do not include the suburban developments such as Linthicum Heights, St. Denis, Relay, Halethorpe, Catonsville, Gwynn Oak, Sudbrook Park, Pikesville and Ruxton.

They also include the waterfront on both sides of the river where a great increase of manufacturing and shipping is expected,

and a large amount of unimproved land which will afford space for development of residences.

SOME VACANT LAND IN EVERY CITY IN THE WORLD.

If the limits of Baltimore city could not be extended until all of the land in the present limits could be improved they would never be extended. There is some unimproved land within the limits as they existed 100 years ago. If every vacant lot in the city must be improved before its limits can be extended, then the city of Baltimore would have to be confined to the limits as they existed more than 100 years ago.

Moreover, it would be in the power of owners of vacant land to defer city extension indefinitely. The city has no power to compel owners of vacant land to build on it. It can only invite improvements by providing streets and other city conveniences.

In a city of hills, like Baltimore, some land, ravines and steep hillsides, are almost impossible of improvement.

There is not a city in the world which does not contain some unimproved lands. There is not a city in the United States which does not contain in its boundaries proportionately MORE unimproved land than Baltimore city. THE PRESENT LIMITS OF BALTIMORE CITY CONTAIN MORE PEOPLE TO THE SQUARE MILE THAN ANY CITY OF THE UNITED STATES.

A city does not grow like the overflow of a river in high water covering every portion of land from bank to bank. A city grows—all cities grow—like trees with branches extending from the main center and intervening spaces between the branches.

ANY EXTENSION BY STRAIGHT LINES WILL ALWAYS TAKE IN VACANT LAND.

It would not be possible, except by a great succession of crooks and turns in the boundary line, to annex to Baltimore city only the land outside the limits, which is strictly a closely built-up extension of the city. Any extension, therefore, by straight lines must necessarily include much vacant property. Moreover, any wise extension of the limits ought to include sufficient vacant

property to provide for the development of the city in an orderly way, according to plan, and not haphazard, which may be reasonably expected to take place within the next 25 years. The city does not get an extension of its limits often. Its present eastern boundary has not been extended for 101 years, and its present northern and western boundaries have not been extended for 29 years. The population of Baltimore has overflowed the present boundaries until there are settled today, in closely built-up communities just outside the present limits, cities without any form of city government, larger than any city in the State except Baltimore. Some of this development has been well planned and some built without any planning.

SHOULD HAVE ROOM TO PLAN THE DEVELOPMENT OF THE GREATER BALTIMORE.

If the limits are extended by straight lines, so as to include these surrounding cities, those lines will also include much vacant land which may be developed in a systematic and orderly way, thereby building the greater Baltimore according to plan and system.

NEED ROOM FOR DEVELOPMENT OF MANUFACTURING AND SHIPPING.

If the city is to keep up with the growth of the other great American cities it must encourage manufacturing. Baltimore was at one time larger than Philadelphia. One reason why Philadelphia is now three times as large as Baltimore is that there has been in the past tremendously greater development of manufacturing in Philadelphia. The vacant land on both sides of the river, but especially on the Anne Arundel side, which is included within the boundaries in the League bill, affords the location for the tremendous development of manufacturing and shipping which Baltimore has the right to expect.

The fact that through the Panama Canal Baltimore is nearer than San Francisco to the west side of South America, and a natural port for the trade from South America; that Baltimore is nearer to the coal fields and grain fields of the Alleghenies and the West than any other Atlantic seaport; that it is one of only

seven cities in the world with 35 feet of water from the ocean to the docks, and that it has a harbor free from tidal disturbances and practically free from stoppage by ice, unite to offer the opportunity to tremendously increase the shipping from this port. Baltimore has spent in the past millions of dollars, and is willing to continue to spend millions to help dredge the harbor, keep it free from ice and obstructions and facilitate shipping. Neither Baltimore county nor Anne Arundel county has even spent a cent for this purpose. It is clear that sufficient space for this development ought to be put within the limits of Baltimore city. The situation in the Curtis Bay, Fairfield and Brooklyn districts of Anne Arundel county is ideal for a wonderful increase in manufacturing industries. It has deep water, ample railroad facilities, factory sites, cheap, as compared with other cities, and to these advantages, the League bill adds the advantages of health supervision, pure water, sewerage, sanitation and adequate police and fire protection at a lower tax rate than they are now paying in Anne Arundel county, and a complete exemption of all the personal property used in manufacturing, including raw material, finished goods, bills receivable or credits due. There is an almost certain prospect that the passage of the League bill would be followed by an unheard-of development of manufacturing in this district.

AREA AND POPULATION ADDED TO CITY.

The boundary lines in the League bill not not include any more territory than is necessary to take in the strictly overflow population from the city and a reasonable space for future development for residential and manufacturing purposes; they include from Baltimore county 46.5 square miles, leaving in that county 600.3 square miles, and from Anne Arundel county 4.5 square miles, leaving in that county 425.9 square miles.

The population which will be added to the city is estimated at about 75,000, leaving a population in Baltimore county 20 per cent. greater than Allegany county, the next largest county in the State, and leaving a population in Anne Arundel county 40 per cent. greater than that of Dorchester county, the most populous county on the Eastern Shore.

The assessable value of property and the population which will be transferred from these counties to the city is only part of the additional property values and population which these counties have received directly from their proximity to Baltimore city, and these counties will continue to reap a benefit, both in wealth and population, from nearness to Baltimore city, which will soon make up to them for what is proposed to be taken into Baltimore city under the League bill.

II. TERMS OF THE BILL.

The bill provides that the rate of taxation upon property within the territory to be added to the city shall begin, for the year 1919, at 60 per cent. of the full city rate and increase 2 per cent. of the full city rate until the two rates become one in 1939.

It gives to the new territory 20 years before it becomes subject to the full city rate, beginning with a rate which is lower than the present rate in the district proposed to be annexed from Anne Arundel county and about the same as the present rate in that portion of Baltimore county proposed to be brought into the city. The present Baltimore county rate is $1.06, with an addition of 10 cents road tax in part of the territory and 20 cents in another part. Thus part of this territory is now paying $1.16 and part of it $1.26. The present rate in the portion of Anne Arundel county to be annexed is $1.40. The present full city rate is $1.98. So that, if the full city rate should be the same for 1919, the tax rate in the new territory for 1919 would be $1.19, and manufacturing industries would pay much less than they now pay because all of their personal property would be exempt, whereas, those in Baltimore county have no exemption and those in Anne Arundel county have only an exemption of their plants.

At the Legislature of 1916 the Delegates from Anne Arundel county tried to get the law granting this exemption repealed.

Considering the additional benefits of city government, in the shape of better health protection, better school facilities, the orderly and systematic development of property and waterfront, the benefit of the city's filtered water supply and of connection with the city's sewerage system, and adequate police and fire protection, the tax rate proposed in the League bill is most reason-

able and far less than that paid for the benefits of city government by other cities in the State.

NO INCREASE IN ASSESSMENT BEFORE 1922.

The bill further provides that there shall be no increase in the present assessment on property in this belt prior to 1922.

It is reasonably certain that these properties would be reassessed by the State Tax Commission within that time, and after 1922 it is just as certain that they will not be assessed by the city at more than their value because all assessments made by the Appeal Tax Court are subject to review by the State Tax Commission.

PROTECTION PROVIDED IN THE BILL FOR ALL EXISTING INDUSTRIES.

All kinds of legitimate business now being conducted in the territory proposed to be added to the city are fully protected by the provisions of Section 15 of the League bill:

"That no ordinance of the Mayor and City Council of Baltimore existing prior to the passage of this act, prohibiting the maintenance of stock yards, abattoirs, packing plants or other plants for the handling of livestock and livestock products, or fertilizer or acid works or soap factories or rendering plants; or prohibiting the keeping or driving of livesotck or the keeping of fowls, or prohibiting or regulating manufacturing or other industrial works or business existing, and as conducted, prior to, and at the time of the passage of this act, shall apply to any portion of the territory annexed by this act to Baltimore city; but nothing herein contained shall be construed to affect the power of the Mayor and City Council of Baltimore to pass ordinances under the police power, or any other power in the charter, affecting the territory and the inhabitants thereof annexed by this act to Baltimore city, to the same extent as they may pass such ordinances affecting the territory and the inhabitants of Baltimore city as it existed prior to the passage of this act."

And common sense teaches that if the city, in order to encourage manufacturing, is willing to make the sacrifice of taking from the tax books all personal property used in manu-

facturing, it certainly will not unnecessarily do anything to discourage any legitimate industry.

COMPENSATION TO COUNTIES FOR PUBLIC PROPERTY IN THE TERRITORY TO BE TRANSFERRED TO THE CITY.

The great bulk of the property—lands, houses, stocks in trade and other personal property—in the territory to be transferred to Baltimore city belongs to private individuals or corporations. It will belong to the same individuals and corporations after the city boundary line is changed as before. As to all this property not one dollar will be taken from the owner or given to the city or anyone else. The title to public property which the County Commissioners hold as trustees for the public, such as schoolhouses, engine-houses, station-houses, etc., will be transferred from the County Commissioners to the Mayor and City Council of Baltimore, but will be held for the same public purposes as before, viz—for the use and benefit of the people living in the community. If the people living in this territory have in the past paid as much taxes to Baltimore county and Anne Arundel county, respectively, as the County Commissioners have spent in the territory in public improvements and public property, then all of this property has been paid for by the people who are living in the community and who will still continue to use it after the city boundaries are extended. But Section 9 of the bill provides that the city shall pay to the counties, respectively, whatever damage they may suffer by reason of the title to any such public property being transferred to the Mayor and City Council of Baltimore; the amount to be paid to be ascertained by three arbitrators, one to be chosen by the city, one to be chosen by the counties and the two to choose a third; if they cannot agree upon the third arbitrator, the Governor to appoint the third.

PROVISION PROTECTING PUBLIC EMPLOYEES IN THE TERRITORY TO BE ANNEXED.

The bill provides in Sections 13 and 14 that the school teachers and policemen resident in that territory shall be continued in their respective employments by the city, if qualified to discharge the duties of the position.

Police in this territory are now paid by the County $840.00 per year. Policemen in Baltimore City are paid $1,040.00 per year.

PROVISION FOR POLICING THE NEW TERRITORY.

The bill provides that it shall be the duty of the Police Commissioners of Baltimore City to maintain public peace and order in the new territory as soon as added to Baltimore city, just as in the old territory, and it will be their duty to put as many policemen in the new territory as may be necessary for the purpose of maintaining peace and good order. To enable them to do this, the bill provides for an addition of sixty (60) policemen to the present force in Baltimore city. It is supposed that this will be ample, as Baltimore county now has only fifty-two (52) patrolmen for the entire county, and the territory to be added to Baltimore city contains less than half the population, and only about one-twelfth of the area of Baltimore county; but if the Board of Police Commissioners found that the sixty (60) additional men were not sufficient they would be obliged under their duty to put as many more as might be necessary in that territory. The bill does not provide that the additional 60 men shall be put in the new territory; it simply provides an addition of 60 men to the police force of Baltimore city and requires the Police Commissioners to maintain order in the new territory as in every other part of Baltimore city.

III. HOW THE EXTENSION OF THE CITY BOUNDARIES IS MADE.

The bill provides that the limits of the city shall be extended upon the passage of the act by the Legislature.

This conforms to the almost unbroken practice in this State. It has always been considered peculiarly the province of the Legislature to incorporate cities and extend their boundaries. More than 100 acts have been passed incorporating Baltimore, Havre de Grace, Belair, Elkton, Chestertown, Centreville, Easton, Crisfield, Cambridge, Salisbury, Snow Hill, Ocean City, Annapolis, Laurel, Rockville, Westminster, Ellicott City, Frederick city, Hagerstown, Cumberland, Oakland, Frostburg and other cities of the State, and extending their limits from time to time. All

of these acts were passed by the Legislature without a referendum except the Act of 1888, which undertook to enlarge the limits of Baltimore on three sides with a separate referendum to each section, and in this case the eastern section—which, from a standpoint of the public welfare, was the most important of the three sections to be annexed—voted to stay out. This act was passed not because it was supposed that any principle of justice or home rule required it, but because it was supposed that the Constitution required it. The Court of Appeals subsequently decided that the Constitution did not require any referendum to the voters in the territory to be annexed, thus leaving the Legislature open to now follow its almost unbroken practice in the past.

OUGHT TO BE DECIDED BY LEGISLATURE.

The question whether or not the limits of Baltimore should be extended, how far they should be extended, and upon what terms they should be extended is a question which OUGHT TO BE DETERMINED UPON ITS MERITS. It is a question that OUGHT TO BE DETERMINED BY AN IMPARTIAL TRIBUNAL, so far as one can be found. Nobody would think of submitting any other question of importance to the sole decision of ONE of the parties interested. The people residing in the territory to be annexed have been worked up into grat excitement by inflammatory statements. They have been led to believe that their taxes would be greatly increased by bringing them into Baltimore city; as many as believe that think that the annexation would be against their pecuniary interests; they are, therefore, NOT QUALFIED TO PASS IMPARTIALLY ON THE QUESTION OF WHETHER OR NOT THIS ANNEXATION IS NECESSARY FOR THE GROWTH AND DEVELOPMENT OF BALTIMORE AND A WISE THING FOR THE BENEFIT OF THE ENTIRE STATE. A great many of these people in the territory proposed to be annexed have their business or their employment, or practice law or other professions in Baltimore city. They come into Baltimore city, make their living there, have all the benefits of the city government thrown around their business or their employment or profession. They get city benefits—why should they not bear city

burdens? Should the State permit people who make their money in the city to stop the progress of the city, to the detriment of the entire State, in order that they may escape their just share of the expense of the city government?

A large number of these people who live in this territory have deliberately gone over the line to dodge city taxes, while enjoying all the benefits of the city and having their business, employment or profession in the city. Should people who want to get city benefits and dodge city taxes be allowed to stop the city's growth and progress and retard the development of the great seaport of the State?

Considered, therefore, from the standpoint of what is wise, just and fair, this QUESTION OUGHT NOT TO BE DECIDED BY PEOPLE WHO HAVE A PERSONAL INTEREST IN DECIDING IT AGAINST THE INTERESTS OF THE ENTIRE STATE, BUT IT OUGHT TO BE DECIDED BY THE REPRESENTATIVES OF THE ENTIRE STATE, namely, the Legislature. The welfare of the State ought to be the supreme consideration.

BALTIMORE CITY AS AN ASSET OF THE STATE.

Maryland has very small territory in comparison with other States, but it has a wonderful asset in its chief city, which has natural advantages over any other city on the Atlantic seaboard. It is 90 miles nearer to the great producing Central West and the great coal and iron regions; it is one of the six cities in the world with a 35-foot channel to its docks; it has a harbor never interfered with by storms or earthquakes, and rarely by ice. It has a supply of food at less cost than any of its competitors; it has a peaceful, law-abiding people, thus furnishing labor with less danger of strikes, riots and disturbances; it has every advantage and only one handicap, and that is the appeal which is being constantly made to prejudice against the city, because it is a great city. Such an appeal is unworthy of any Marylander. Every Marylander ought to be proud of Baltimore's greatness and ought to be glad to do anything to help it in the race with its competitors.

BENEFITS TO THE CITY.

The great benefits which will accrue to the city are:

(a) To give the city its proper standing in the census report and thus aid in attracting to Baltimore people from all over the country and money from outside to be invested in factories and other industries around our harbor.

(b) To promote a more prompt and effective development of this territory immediately around Baltimore and around the harbor, by having its development made according to the metropolitan plans of the City Planning Commission and the City Topographical Survey Commission. To have its advantages advertised by the Municipal Factory Site Commission, by the trades bodies of Baltimore, and by the great railroad corporations which have their terminals here and are interested in trying to bring new industries and new people to Baltimore. The harbor of Baltimore is one of the finest in the world. There are only seven cities in the world with a 35-foot channel to their docks. Baltimore is one. The city is spending $250,000 this year, and is ready to spend more, in improving and widening the channel. This harbor is one of the greatest assets of the State. The city is in a position, which neither Baltimore county nor Anne Arundel county is in, to make the most of this harbor; to develop it and expand its commerce for the benefit not only of Baltimore city, but of the entire State of Maryland.

(c) The city can better protect its health by having this territory and preventing the pollution of streams that run from this territory into the city, and extending the benefit of its trained Health Department, and of its sewerage system and water supply out into the closely built-up sections which are taken in by this bill.

(d) The city can better protect the peace and good order of the State by extending the jurisdiction of its efficient metropolitan police force over the outlying closely built-up suburbs.

The benefit to Baltimore of having its proper standing in the census is not merely a matter of pride. The Federal Census is the greatest advertising medium in existence. It goes into every crossroads and every home in the United States. The only way in which a city can grow rapidly is by attracting to it people from

outside, especially the ambitious young men who grow up in the country and in the small towns and when they reach manhood want to go to some big city and try their fortunes. And its business and factories can expand by getting capital from the outside. There are untold millions of dollars always seeking investment. If a city is shown by the census as growing, the idea will quickly circulate that it is a live and progressive city, and men outside with money to invest will send it there to be invested. And young men from the country and the smaller towns and cities, who have not money, but who have what often means more—brains and ambition, energy and the vitality of youth—will go to that big city which appears in the census as live and growing.

IF WE DO NOT GET THE LIMITS OF BALTIMORE EXTENDED, IN THE NEXT CENSUS BALTIMORE WILL DROP DOWN TO THE TENTH OR TWELFTH PLACE. IT WILL BE ADVERTISED ALL OVER THE COUNTRY AS A SLOW TOWN, WHICH IS GOING BACK. AND THIS WILL DO THE STATE AND THE CITY INCALCULABLE DAMAGE.

BENEFIT TO THE ENTIRE STATE.

The greater the city the greater the State.

Increase of commerce benefits the entire State.

Growth of the city improves the markets of the people of the State.

Widens the opportunity for the young people who want to go to a big city.

Increases the contributions to the revenues of the State government.

Makes farm lands more valuable, especially within 20 or 30 miles of Baltimore.

Higher school facilities and hospitals benefit the entire State.

The city of Baltimore is part of the State of Maryland. A part cannot prosper and grow greater without the whole becoming greater. The progress of the city benefits the entire State. The growth of the city in population and wealth means an increase in the population and wealth of the State. The city is the

chief market for the products of the State. The bigger the city the better the market. The advantages of the higher institutions of learning and of the magnificent hospitals of Baltimore are open to the entire State. The city if permitted to grow and be considered live and progressive will attract the boys and girls from all over the State—who ARE GOING TO SOME GREAT CITY, AND IF THEY ARE NOT ATTRACTED TO BALTIMORE WILL GO OUTSIDE OF THE STATE. The fathers and mothers of Maryland can help to keep their children in the State by helping the prosperity and growth of Baltimore; and when their boys and girls come to Baltimore they will be under a better moral and religious and home influence than obtains in any city of its size in the world.

And the greater the city the more it will contribute toward the expenses of the State government, whose benefits are shared by the entire State.

CITY IS ASKING FOR ONLY PART OF WHAT IT HAS GIVEN BALTIMORE AND ANNE ARUNDEL COUNTIES.

Baltimore and Anne Arundel counties, by reason of their nearness to Baltimore city, have two advantages not enjoyed by the other counties of the State, viz:

(1) The thickly settled population immediately around the city limits, made up almost entirely of people who have their business or their employment in the city, and who are here because they want to be at Baltimore; and the factories and business that have sprung up around the harbor BECAUSE, and ONLY BECAUSE, THAT HARBOR IS AT A GREAT CITY and is maintained and kept safe at the expense of the city.

(2) There always has been and always will be a large number of rich men of Baltimore city who will go out into the Green Spring Valley, Ruxton, Catonsville, Riderwood, Lutherville and other places in Baltimore county, and Linthicum Heights and the developments around the Severn and elsewhere in Anne Arundel county to build magnificent homes costing from $10,000 to $100,000, change land from farming land valued from $10 to $50 an acre to a residential neighborhood valued from $1,000 to $5,000 an acre, and thus not only add the increased value of their

expensive residences to the taxable basis of the county, but also pay to the county TAXES ON THEIR PERSONAL ESTATE WHICH MAY AMOUNT TO ANYWHERE FROM $50,000 TO MILLIONS OF DOLLARS.

What has made the population of Baltimore county more than twice that of Allegany, and three times that of Frederick, Washington and other large counties, and its assessable basis five times that of Allegany or Frederick and ten times that of most of the other counties? There is but one answer. BALTIMORE CITY HAS MADE BALTIMORE COUNTY THE LARGEST AND RICHEST COUNTY IN THE STATE; and if it is to the benefit of the State, why should not Baltimore county give up a part of what it has gotten from the city? If the passage of this bill transfers 70,000 people and $70,000,000 of property from Baltimore county to Baltimore city, BALTIMORE COUNTY WILL STILL BE THE LARGEST COUNTY IN THE STATE IN WEALTH AND POPULATION.

If Baltimore county, without any natural advantage over Carroll, Frederick, Washington, Harford, Cecil, Dorchester or other counties that might be mentioned, has gained a population MORE THAN DOUBLE THAT OF ANY OTHER COUNTY, AND A WEALTH FROM FIVE TO TWENTY TIMES THAT OF OTHER COUNTIES, and has GAINED BOTH SOLELY BECAUSE IT IS NEAR TO BALTIMORE CITY; why should not the Legislature, FOR THE BENEFIT OF THE ENTIRE STATE, compel Baltimore county to give back to Baltimore City A PART of what it has received from Baltimore City?

WILL NOT INCREASE TAXES IN COUNTIES.

The inclusion of this territory in Baltimore city will not increase the taxes upon the taxpayers of Baltimore and Anne Arundel counties, unless it can be shown that these counties have been collecting more taxes from this territory than they have spent for governmental purposes in this territory. The best information available indicates that this territory has cost Baltimore and Anne Arundel counties for expenditures for streets,

schools, roads, police and fire department and other governmental purposes fully as much as the counties have received in taxation therefrom. This is pretty well demonstrated by the fact that the tax rate in Howard, Carroll, Frederick and Washington counties is lower than it is in Baltimore county. These counties are very similar to Baltimore county, with the exception that neither one of them has a suburban development like that outside of the present limits of Baltimore. If Baltimore county derived any net profit from the taxes from this territory, its tax rate ought to be much less than that of Carroll, Howard, Frederick and Washington; but it is greater.

The State Tax Commission's report of the tax rate for 1915 in these counties was as follows: Carroll County, 80 cents; Frederick County, 98 cents; Howard County, 95 cents; Washington County, 69 cents, and Baltimore County, $1.06. These figures indicate that instead of there being a net profit to Baltimore County from the taxation of this suburban territory there was really a net loss, or, in other words, that the County Commissioners have been spending more money in this territory than they have gotten from it.

A MATTER OF THE PUBLIC WELFARE.

This is a bigger question than politics; a bigger question than the political or personal fortunes of one man or another man; bigger than the local pride of Baltimore City or Baltimore County or Anne Arundel County. It is a question of the public welfare. It is a matter of the interest of the entire State, and it is true now, as it has always been, that the interest of the State is the supreme law.

Baltimore City was created by the Legislature not for political reasons, but for the public welfare. Its limits have been five times enlarged, not because the Legislature wanted to make Baltimore bigger or Baltimore County smaller, but because the Legislature recognized the fundamental fact that Baltimore City is a great asset of this State; that the growth and development of the City is a great benefit to the State, and that to give the City ample room in which to grow and ample powers with which to develop and prosper was promoting the public welfare of the

entire State. The same consideration of public welfare now demands that the City's limits should again be enlarged so as to give it the territory to enable it to take advantage of the present opportunity for development of manufacturing and shipping industries.

PERSONAL INTERESTS MUST GIVE PLACE TO THE PUBLIC WELFARE.

The personal interests or wishes of individuals must always give place to the public welfare. Individuals all over the United States are now being called upon to assume very heavy burdens of taxation to promote the war, because the public welfare demands it. There never was a great measure passed by any Legislature for the public welfare that did not run counter to the interests and wishes of some of the people and that did not result in some hardships; but the answer has always been that the public welfare is the supreme consideration. The extension of the limits of Baltimore City takes some territory and population away from Baltimore County and Anne Arundel County; it may result in some little increase in taxes upon property owners brought into the City from Baltimore County; and it may wound to some degree the pride and prestige of the political leaders of Anne Arundel County and Baltimore County, but the complete answer to every one of these objections is that the public welfare of the State and the proper development of the greatest asset of the State demand this extension of the limits of Baltimore City, and the personal pride of political leaders or the personal interests of a few taxpayers ought not to stand in the way of the public welfare.

CLIPPINGS FROM THE PRESS IN THE COUNTIES.

NO REASON FOR ANTAGONISM BETWEEN CITY AND COUNTIES, EXTENSION OF BALTIMORE CITY MATTER OF STATE-WIDE INTEREST.

(From the Ellicott City Times of December 2, 1916.)

We have always noticed with disapproval the feeling of antagonism which exists between Baltimore City and "the coun-

ties" in matters of a political nature. Of course, this feeling is well known to exist, there is no denying it, though it is frequently denied when most apparent. It exists solely in political circles, and we are glad to say, does not express itself in any other spheres. We see the most pronounced instances of it during the sessions of the Legislature and especially at times when questions affecting the growth and prestige of the City of Baltimore are under discussion.

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One of the most important, if not the most important question along this line, which will come up before the next Legislature will be the annexation question.

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We want to see the counties entirely fair in handling this question, fair to Baltimore City and the territory involved and fair to the State at large. To our minds it is a matter of State-wide interest. Just as Baltimore is in a large measure dependent upon the welfare and prosperity of the counties, so are the counties dependent upon the welfare and prosperity of Baltimore City. Baltimore is too big a factor in the growth and progress of the State of Maryland to be considered in any light except as a matter of State-wide interest—something in which we are all interested. Baltimore is now launched upon a career of great industrial activity, an activity from which the whole State should receive great benefit. Petty politics has no place in the consideration of any big questions that may be brought before the next Legislature with the end in view of aiding and promoting Baltimore's development. A "Greater Baltimore" will be one of the biggest questions before the next session of the General Assembly, and it is to the interest of every section of the State that representatives be sent to Annapolis who are big enough to give this question the thought and attention it deserves.

"INTERESTS OF THE CITY AND COUNTIES ARE LARGELY IDENTICAL."

(From the Cecil Democrat of December 16, 1916.)

"Recently the Ellicott City Times discussed editorially at some length the much-talked-of differences between Baltimore

City and the Counties. It says the interests of the city and counties are largely identical, and the real difference is largely political.

The Cecil Democrat agrees with our contemporary to a degree. We have always believed that the city should be allowed to grow, and without knowing the details would say that it should be allowed to carry out its annexation plans. Whether or not it should be allowed the full scope we are not prepared to say. But there is no doubt that the principle is right and just."

CITY AND COUNTIES CO-PARTNERS "IN THE BUSINESS OF MAKING MARYLAND A GREATER STATE."

(From the Easton Ledger of May 3, 1917.)

"The Ledger has always been heartily in favor of allowing Baltimore City to extend its limits. Although efforts have been made to inject politics into this controversy the question is not political, but economic, which is recognized by any intelligent and sincere examiner of the situation.

As Mayor Preston has said the interests of country and city are not conflicting, but mutually dependent and helpful. The right relation between Baltimore City and the counties is that of co-partners jointly engaged in the business of making Maryland a greater State.

Of course a few politicians have cried "wolf" and have tried to insinuate that through extension the city hopes to dominate the State politically, but nothing could be further from the truth. The addition of the territory affected will not change the political power of either the city or the counties that the territory is a part of. Each of these counties will have one State Senator, as they now have, and will have the same number of members of the House of Delegates, and Baltimore City will have four Senators as they now have and twenty-four delegates to the Legislature as they now have. This point is covered by the express language of the Constitution."

BALTIMORE CANNOT GROW GREATER WITHOUT MAKING MARYLAND GREATER.

(From the Denton Journal of June 2, 1917.)

One of the features of the bankers' convention in Atlantic City was the address of Mayor James H. Preston, on the need for the expansion of Baltimore City. Concluding a strong argument in behalf of an extension of the city limits, in which he points out the value of the City to the State, that there is no conflict between the interests of the county and city, that the highest development of the city will be vastly to the interest of the State, Mr. Preston says: "Baltimore is not asking for more power, but for larger opportunity to serve the public welfare. Baltimore is asking to be allowed to grow. She cannot grow greater without making Maryland greater. Just as a son's success reflects honor upon his father, so the prosperity of Baltimore will add lustre to the fame of Maryland. Men of Maryland, I appeal to you to help Baltimore grow and prosper, for in so doing you will help to make a Greater Maryland."

"ISSUE OF ANNEXATION IS NOT PARTISAN, SERVING THE WHOLE PEOPLE WHEN WE ENDORSE THE ISSUE."

(From the Progress, Howard County.)

"The issue of annexing adjacent suburbs to Baltimore is purely a business proposition, and will be a live issue in the next campaign. Baltimore's ambition follows the pace set by other metropolitan cities. Annexation is bound to come, as the very nature of the situation demands that it shall be done. While Mayor Preston is an avowed partisan of the machine type, yet we must admit that he is also a good business mayor. The great work contemplated under Timanus and Mahool was well handled by Preston. It was his good fortune to have millions of dollars at his disposal to make these improvements, and it is more than gratifying to say—in this age of graft and scandal—that it is our honest opinion that not a dishonest dollar has stained the palms of Mayor Preston. In fact, not an intimation of wrongdoing has been made against the Preston regime. When we think of the millions spent and the temptations that might overcome most

men, we must concede to our political opponent what is justly his—that he has made an excellent Mayor of the metropolis of Maryland.

"Now he desires to annex the suburbs of Baltimore as a finish to well performed work, and it is the part of wisdom for the county people to meet this issue in a fair way. Reasonable reflection will convince all fair-minded people that annexation will do a world of good and will not harm anyone. The great mass of people that live hereabouts depend largely upon the business of Baltimore for a livelihood, being Baltimoreans in every sense of the term, and every inhabitant thereof ought to feel a sense of city and state pride in seeing Baltimore ranking in the next census as a leading city of the country. As we said, in the beginning, Mayor Preston is a partisan machine Democrat, and for that reason alone we dislike him, and would prefer a liberal Republican at the head of Baltimore's affairs, but the issue of annexation is not partisan, and we feel that we are serving the whole people when we endorse the issue of annexation as advocated by the Preston administration."

NO DANGER OF CITY CONTROLLING STATE "UNTIL FOUR SENATORS OVERCOME 23 AND 24 DELEGATES OUTVOTE 77."

(From the Harford Democrat of July 27, 1917.)

The question of the right of Baltimore City to extend its limits has been uppermost in the minds of Maryland economists for the past two years, has now become of paramount importance, and is the one on which the electors desire to know how the candidates for senator and members of the Legislature stand. A bill to extend the city limits was before the last Legislature and defeated, not on its merits, but by petty politics, petty politicians and selfish interests. As is well known, Baltimore is without the room to expand and develop that a city should have, particularly a great commercial city.

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The courts have said in plain terms the law-making power has the right to pass a law and put it in force without referendum, as contended for by the opponents of annexation in the two counties adjoining the city, whose bosses fear a diminution of their power, prestige and patronage.

To secure their ends, the defeat of city extension, these bosses are trying to scare the county members by saying city extension means increased representation in the Legislature and conventions and control of the State. These gentlemen overlook the fact, or think the people do not know, that Baltimore's representation is fixed by the Constitution, and cannot be changed without a three-fifths vote of each branch of the Legislature and ratified by the people or a Constitutional Convention, with the same representation. The city now has, and will have after annexation, four members in a body of 27 senators and in the House 24 members in a body of 102. This representation cannot be changed until four senators overcome 23 and 24 delegates outvote 77 and their vote ratified by the electors of the State. The counties are now in the saddle and the saddle girded with Constitutional and popular safeguards, and will so remain after the city limits are extended and the city and State have reaped the rewards now awaiting their grasp, as soon as the Legislature places the nearby harbors and contiguous territory under Baltimore's control, for the welfare of all the people of the Commonwealth.

"GREATEST SINGLE ASSET OF MARYLAND IS THE CITY AND HARBOR OF BALTIMORE."

(From the Chestertown Transcript of June 21, 1917.)

In his fine speech last week before the Maryland State Bankers' Association in Atlantic City, Mayor Preston made this very strong statement:

"The interests of country and city are not conflicting, but mutually dependent and helpful. The right relation between Baltimore City and the counties is that of co-partners jointly engaged in the business of making Maryland a greater State. The State can be made greater, just as a bank may be made greater, by the efficient development and employment of its assets and opportunities.

"The greatest single asset of Maryland is the City and Harbor of Baltimore. The money value of this asset to the State is indicated by the fact that the State collects more revenue

from the 30 square miles of Baltimore City than from the 9,830 square miles of the State outside of Baltimore, and the further fact that a large part of the revenue which the State collects outside of Baltimore results from increased property values due to proximity to Baltimore and other cities of the State."

CITY BETTER EQUIPPED TO DEVELOP HARBOR AND SURROUNDING TERRITORY FOR BENEFIT OF THE STATE.

(From the Queenstown News of June 16, 1917.)

Here is another strong statement from Mayor Preston's fine speech delivered before the State Bankers' Association in Atlantic City:

"In the parable of the talents the Lord took his talent away from the servant who could not profitably use it, and gave it to that servant who was able to use it to advantage. This harbor and surrounding land, with their marvelous possibilities, are a talent belonging to the State. Baltimore county, Baltimore city and Anne Arundel county are servants of the State. The State should take its talent away from the counties which are not equipped to use it to advantage, and give it unto the stewardship of the city which is able and willing to promote its highest development.

"This does no violence to the principle of home rule. The people in this belt have never had separate home rule. They have had a voice in the selection of county commissioners by whom they are governed. After they become a part of Baltimore city they will have a voice in the selection of a Mayor and City Council by whom they will be governed. Their government will be nearer to them then than it is now in distance, in convenience of access, and in responsiveness to their needs. And it will be a government better suited to their needs."

BALTIMORE SHOULD BE ALLOWED TO EXPAND.

(From the Laurel Leader, August 17, 1917.)

The movement for annexation by Baltimore city of certain contiguous territory is gaining momentum very rapidly, for the

simple reason that the people of the State are coming to realize the fairness and justice of the proposition, as well as the importance of the same to the city and the State.

There are, of course, persons who do not favor annexation for Baltimore, but some people are never very pronouncedly in favor of anything, though just why a county man should oppose the idea is hard for some people to understand.

All the argument is on the side of annexation. Baltimore is a big city, it has a large suburban district which is for all practical purposes a part of it; all the arteries of trade and endeavor are generated in and from the city proper, and besides many advantages would accrue to those sections by annexation.

The city itself would reap benefits and advantages by the addition of the territory it is proposed to take in and thereby be enabled to take its place among the cities of the country which its real size and importance entitle it to.

It is probable the Republican party will declare for annexation without any reservations, which we think is the thing for it to do for the annexation contemplated is just and right.

PLANK IN DEMOCRATIC PLATFORM OF 1917.

"We approve of the efforts of the City of Baltimore to include within its limits contiguous territory in Baltimore and Anne Arundel counties, including such of its suburbs as are a part thereof, provided that such extension shall not be made except with the consent of the majority of the qualified voters of the territory proposed to be annexed, as required by the Constitution of the State and by the principles of self-government and home rule always dear to a free people."

EDITORIAL IN SUN, FRIDAY, SEPTEMBER 21, 1917.

The Democratic party of Maryland, acting through its State Convention, has given the people of Baltimore a slap in the face. Annexation with a referendum means practically no annexation

at all. To all intents and purposes the party has declared itself against annexation. It has done this against the advice of its widest-visioned and most public-spirited leaders, such as Mr. Furst and Mr. Shehan, at the command of the Baltimore county politicians.

We shall have to wait until the Republican convention has acted before we can know whether the people of Baltimore and the people of the State who realize the justice of Baltimore's cause have any redress in the matter.

WHAT THE DEMOCRATIC PLANK ON ANNEXATION MEANS.

(Editorial in Sun, September 22, 1917.)

It is important that the people of the counties of Maryland know exactly what the Democratic State Convention did in the matter of annexation on Thursday last and exactly what the plank which it adopted means.

That plank professedly declares for annexation. Actually it opposes annexation as effectually as if it had read: "We are unalterably opposed to any and all annexation for Baltimore city." It is thus hypocritical and insincere.

An annexation measure with a referendum to the people of the territory proposed to be annexed means that there will be no annexation. The plank favoring this sort of annexation, the plank adopted by the convention, was drawn as it was in order to defeat annexation. It was supported by the Baltimore county and the Anne Arundel county delegates, the delegates who controlled the convention so far as this matter is concerned, simply because it will defeat annexation if the Legislature is bound by it. That was their sole reason for favoring it. Theirs was no abstract interest in the principle of a referendum or home rule or the sancitity of the Constitution. They were out to beat annexation, and, having the power, they jammed through this particular plank because it was the most effective they could devise to that end.

The canting references to a referendum being "required by the Constitution of the State and by the principles of self-government and home rule, always dear to a free people," are pure buncombe. If the Constitution demanded a referendum to the people of the territory proposed to be annexed, the opponents of annexation would be well content to have a measure passed without a referendum, for that would insure its being declared invalid by the courts. As a matter of fact, the Maryland Court of Appeals has explicitly stated that the Legislature has the power to extend the limits of Baltimore, with or without the consent of the voters in the districts annexed. And a group of lawyers of as high standing as any in the State, including Mr. Marbury, Mr. Whitelock, Mr. France, Mr. Hagner and Mr. Dallam, have given their opinion that annexation without a referendum would be wholly constitutional.

Nor do the principles of self-government and home rule, always dear to a free people, require a referendum to the people of the territory proposed to be annexed. If a referendum is required, the principles of self-government and home rule demand that it should be made to the people interested in the question, who in the case of annexation include not only the people of Baltimore but also the people of the whole State of Maryland. If Baltimore is to be hindered, thwarted, confined, repressed by a few people living on the outskirts of the city, then Baltimore cannot govern or rule itself; it is being governed and ruled, in part, by those who live on its borders. Mr. Talbott and Dr. Wells may think that they have a divine right to restrict the growth and progress of Baltimore city, but we do not think that such a contention will appeal to the people of Maryland outside of Baltimore and Anne Arundel counties.

Baltimore must rely upon the sense of justice of the people in the counties of the State. We hope the arbitrary, unfair and insulting action of the convention will have the effect of interesting them in this subject of annexation, that it will lead them to inform themselves fully about it and to mature their opinions on it, and they will make their opinions known and felt. For they have a direct financial as well as a moral interest in this question. Baltimore pays a tremendous proportion of the expenses of run-

ning the State. The more it prospers the more it will pay; the less it prospers the more the counties will have to pay. Annexation is not a purely local issue.

FRANK FURST'S OPINION

In Reference To a Referendum To the Voters in the Belt Which Was Contained in the Hall Bill of 1916.

In The Sun of April 2, 1916, Mr. Frank A. Furst was quoted as follows:

"Asked what he thought about the Hall bill as a substitute for the real annexation bill, he exclaimed: *'It's a counterfeit.'* . . . What the party has done to Baltimore in the smothering of the real annexation bill was brutal enough, but—I am not going to say any more on that subject—to offer us the Hall bill in its place is an insult to our self-respect and to the intelligence of the people of the State who may be asked to consider it a redemption of the party's pledge."

In an interview in The Sun of September 18, 1917, Mr. Frank A. Furst said:

"I hope the Democratic leaders and the delegates to the State Convention will see fit to handle this question of annexation in a statesmanlike and sincere fashion. I hope they will declare outright for the bill of the Non-Partisan Greater Baltimore Extension League or its equivalent. If they are not willing to put an honest and unambiguous plank in their platform, I say again, with Mr. Shehan, that I hope they will put nothing in, or declare against annexation. For my part, I want no more nonsense."

STATEMENT GIVEN OUT BY DEMOCRATIC LEGISLATIVE CANDIDATES IN BALTIMORE CITY.

(From The Sun of September 22, 1917.)

REPUDIATE FAKE PLANK

Democratic Candidates Declare For Real Annexation.

PARTY MEN IN CITY INDIGNANT

Talk Heard Of Helping Republicans To Victory If They Stand Behind Baltimore.

The fake annexation plank put into the Democratic platform on Thursday by the State people, in accordance with the wishes of Congressman Talbott and Dr. George Wells, had exactly the effect yesterday which everyone in touch with sentiment in Baltimore knew it would have. Baltimore was indignant and fighting mad. And that does not mean political Baltimore alone; it means political Baltimore plus civic and social and commercial and industrial Baltimore.

Early in the afternoon all of the Democratic city organization candidates for the House who were in the city met at the Democratic Club and signed a declaration that, if elected, they will not be bound by the Democratic Convention's plank; that they will not enter any party caucus on annexation, and that they "will stand together in defense of our city." They also treated the Annexation bill of the Non-Partisan League as embodying "a reasonable extension."

DECLARATION ADOPTED.

The declaration of the Democratic candidates was as follows:

"The undersigned, Democratic candidates for the Legislature from Baltimore city, hereby declare that we consider a reasonable extension of the limits of Baltimore city, as proposed in the bill of the Non-Partisan Greater Baltimore Extension

League, to be absolutely necessary for the growth and development of this city, and that it is not a political matter, but a matter affecting the progress and prosperity and the material and moral welfare of the city and State.

"We therefore declare that we will not be bound by the plank on annexation in the Democratic platform, and that, if elected to the Legislature, we will not take part in or be bound by any Democratic caucus on the subject of city extension, but will stand together in defense of our city."

The declaration was signed by the following: John W. Prinz, Jacob C. Antonio, John J. Burns, Howard W. Curry, John J. McCusker, William Purnell Hall, George H. Degenhard, Bernard J. Flynn, Oscar D. Green, Eugene O'Dunne, Frank F. Luthardt, Stephen J. McDonough, Samuel M. Ambach and John C. Distler.

FOUR CANDIDATES ABSENT.

The absentees from the meeting were Joseph H. Mellen, a Kelly man returned nominated in the First district, against whom John C. McLaughlin has obtained a recount, which began yesterday; Joseph M. Kelly, of the Second district, and Edward T. Dempsey and Emmet W. White, of the Third. All are city organization men. They were out of town, and their friends say they unquestionably will add their names when they return.

CITY EXTENSION PLANK IN REPUBLICAN PLATFORM OF 1917.

EXPANSION OF BALTIMORE CITY.

The importance of the city of Baltimore as the metropolis of Maryland and one of the great American seaports, and the contribution which the growth and prosperity of the city make to the prosperity and welfare of the State, require that the city receive from the State government consideration favorable to its development.

The fact that the area within the present limits of Baltimore city is the most densely populated of any city in the country; that the overflow from Baltimore city has reached a population greater than that of any city in the State other than Baltimore;

be fair and equitable to Baltimore and the remainder of the State the preparation of that measure was turned over to a committee consisting of prominent men from all parts of the State.

The committee drew a bill, the one now known as the Non-Partisan Greater Baltimore Extension League's bill, and it was unanimously approved at a meeting of the league on June 7 of this year. It represented a non-partisan, non-sectional opinion of the kind of annexation that would be fair and just to everybody. The people of Baltimore got behind this bill with practical unanimity and it was this kind of annexation which they asked of the two parties.

Such was the situation up to the time of the meeting of the two State conventions. Baltimore presented a definite, reasonable, fair request to these conventions. What response did it get?

All Maryland now knows. The Democratic convention flatly slapped the city in the face. At the dictation of the Baltimore county machine it mildly endorsed a vague sort of annexation, but coupled with that equivocal endorsement a demand for a referendum to the people of the territory proposed to be annexed, which, as everyone knows, means no annexation at all. The framers of that plank meant it to be a refusal of all annexation and favored it because they thought it would insure the defeat of all annexation.

The Republican convention, on the other hand, met the issue fairly, squarely and straightforwardly. It did not equivocate, it did not straddle, it did not resort to ambiguous language. It placed itself flatly on record as endorsing the kind of annexation that Baltimore has asked and pledged itself to such annexation. No one can doubt where any candidate for the Legislature who runs on this platform will stand on annexation if elected.

Under these circumstances, what should the Democrats of the State who believe in fairness and justice and good-government do on election day? What can they do, but one thing? The Sun has no hesitation in saying that, in its opinion, in all contests for Legislative offices, in city and county, where the Democratic candidates are not known to be for annexation, where they stand back of the political crowd that framed the annexation plank of the party platform, good Democrats will best serve the interests

of the State and best conserve their own self-respect by disregarding party ties and voting for the Republican candidates.

Annexation is not a political question. It is an economic question. A man is no less a Democrat because he favors annexation and no less a Republican because he opposes it. Politics has been dragged into the matter only because one faction of the Democratic party hates another faction that happens to favor the extension of Baltimore's limits. A leadership that thus subordinates the public interests to its own factional interests properly deserves to be rebuked by the people.

RESOLUTION ADOPTED BY CITY COUNCIL OF BALTIMORE.

(From The Sun of October 2, 1917.)

"Resolved by the First and Second Branches of the City Council of Baltimore, that we consider a reasonable extension of the limits of Baltimore city to be absolutely necessary for the growth and development of this city, and for the moral and material welfare of the State; and that this is a business question and a question affecting good government and the public health, and not a political question.

"We indorse the bill prepared by the committee on draft of the bill of the Non-Partisan Greater Baltimore Extension League, and we demand its passage by the Legislature of 1918.

"We declare the plank in the Democratic platform on the subject of city extension to be insincere and intended to defeat city extension, and that no candidate can stand on or favor that plank and at the same time be a friend of Baltimore city.

"We therefore call upon the people of Baltimore to send no man to the Legislature from Baltimore city who will not unqualifiedly pledge himself to vote for and use all proper means within his power to secure the passage by the Legislature of 1918 of the Greater Baltimore League Bill."

RESOLUTIONS ADOPTED BY THE BOARD OF ESTIMATES OF BALTIMORE CITY.

(From The American of October 3, 1917.)

"We regret that the Democratic state organization, under the domination of Governor Harrington, Mr. Talbott and Dr. Wells, has seen fit to defy the sentiments and wishes of the people of Baltimore city and take a position of open hostility to the progress and prosperity of our city and the welfare of our State.

"It has done this unnecessarily and deliberately, after repeated warnings that the people of Baltimore consider city extension an economic question, affecting the public welfare and, therefore, of more importance than party success.

"Every effort has been made by leading citizens of the city and state of all parties to take the question of city extension out of politics and place it on the high plane of the moral and material welfare of the city and state. A large non-partisan league has been formed. A committee of leading lawyers, independent of any influence except their own judgments of what was fair and right and for the public welfare and representing both parties and every section of the State, 7 of the 11 members being from outside the city, had given careful study to the matter and prepared a bill fair in every particular. The best sentiment of the State has repeatedly urged both parties to indorse this bill and thus remove the question from politics. The Democratic state organization ignored this appeal. It chose to drag the question of city extension into politics. It took the side against Baltimore city and thus put the Democrats in this city in the position where we must choose between our party and our city.

STAND BY CITY.

"We choose to stand by Baltimore city. We choose this the more readily because we are convinced that the interests of Baltimore city and of the State in this matter are not conflicting, but concurrent; that the prosperity and development of the city mean the prosperity and development of the State; that a greater Baltimore means a greater Maryland. We hold the public welfare

above party and the progress and good government of our city and State of more importance than party success.

"To insure the passage of the Non-partisan Greater Baltimore League Bill it is important not only to elect a majority of each house pledged to the bill, but also that both houses should be organized by the friends of the bill.

"The presiding officer, with his power of appointing committees and ruling on parliamentary questions, is frequently the deciding factor in the passage or failure of closely contested measures.

"The same influence which controlled the Democratic convention and dictated a platform hostile to the interests of Baltimore city and detrimental to the welfare of the State will control the Democratic caucus, and the welfare of our city must not be sacrificed upon the altar of a party caucus.

"We, therefore, members of the Board of Estimates of Baltimore City, deem it our duty to the people of Baltimore who have honored us with responsible positions in the city government, to say that we shall support the Republican platform in favor of the city extension and we shall oppose every Democratic candidate for the Legislature who does not openly repudiate the declaration of the Democratic platform in reference to city extension and pledge himself to aid the friends of city extension to organize both houses of the Legislature and not to take part in or bound by any Democratic caucus on any question affecting the interests or welfare of Baltimore City.

RESOLUTION ADOPTED BY OFFICERS AND COMMITTEES OF NON-PARTISAN GREATER BALTIMORE EXTENSION LEAGUE.

(From American of October 5, 1917.)

On January 30, 1917, at a largely-attended meeting of representative citizens, the Non-Partisan Greater Baltimore Extension League was organized and adopted the following declarations of principles:

"That the passage by the Legislature of 1918 of a proper

act enlarging the boundaries of Baltimore city is necessary to the growth and development of the chief city and port of Maryland; that this is a matter affecting the public welfare of the state, in which all the people of the state are interested, and, therefore, a matter which should be determined by the people of the entire state, or their representatives, viz: the Legislature, and should not be submitted to the determination of, or be made dependent upon the wishes of a part of the voters of the state."

At the same time it was declared to be the purpose of the league to take the matter of the proper extension of the limits of Baltimore city out of politics and treat the matter as a business proposition affecting commercial and industrial development of this city and the public welfare of the state.

DEMOCRATS REFUSED.

On February 16, 1917, the board of directors of the league appointed a committee of 11 leading lawyers, representing both parties and every section of the state, to prepare a proper and fair bill. This committee, after mature consideration and after inviting views and suggestions from every one who desired to be heard and after considering all suggestions that were made, prepared and unanimously recommended such a bill and at a public meeting of the league, duly advertised, on June 7, 1917, this bill was unanimously approved.

Every effort was made to have both parties approve the League bill, and thus treat the extension of the limits of Baltimore city as a non-partisan matter.

The Democratic Convention refused to co-operate in this effort to keep this question out of politics, refused to indorse the League bill and took the narrow and illogical position, which is fatal to the proper development of Baltimore city. that a bare majority of the people who settle near the city's boundaries should be given a veto power upon the growth of the city, and that a great public measure promoting the public welfare of the entire State should be subject to the risk of being defeated by a bare majority of one-twentieth of the voters of the State. This action of the Democratic Convention was promptly repudiated

by a majority of the Democratic candidates for the Legislature from Baltimore city.

The Republican Convention indorsed the League bill, distinctly and without qualification or equivocation, and thus, as far as was in their power, co-operated in the effort to treat the question as a non-partisan one.

MOST IMPORTANT ISSUE.

City extension is the most important issue of this campaign.

In this situation it is the judgment of the officers and committees of the League that the matter should still be treated as non-partisan in the only way in which that can now be done, viz., by taking the position that the passage of this fair bill for the expansion of Baltimore city is of more importance than the success of any party or any candidate.

We, therefore, commend the action of those Democratic candidates who have repudiated their party's annexation plank, but suggest that to make their position logical they should publicly say not only that they will, if elected, vote for the League bill, but also that they will vote so as to secure presiding officers and committees friendly to that bill.

We commend the Republican party for taking its stand upon the high ground of the public welfare. And we respectfully urge all members of the League and all citizens interested in good government and in the progress and development of our State and city to vote in this election, regardless of party lines, only for candidates who stand unreservedly for the passage of the League bill, and who will stand with the friends of the League bill in the selection of the presiding officers of both houses of the Legislature.

CAMPAIGN COMMITTEE NON-PARTISAN GREATER BALTIMORE EXTENSION LEAGUE.

ALLEGANY COUNTY:	Andrew Ramsay, Ferdinand Williams, James M. Sloan, Hon. Thomas W. Koon.
ANNE ARUNDEL COUNTY:	D. R. Randall, John H. Geis.
BALTIMORE CITY:	Van Lear Black, Frank A. Furst, E. Stanley Gary, S. Davies Warfield, Dr. Frank J. Good-

now, R. Brent Keyser, Col. Harry B. Wilcox, Thomas O'Neill, William P. Ryan, John T. Stone, Herbert A. Wagner, George Whitelock, Frank N. Hoen, Martin Meyerdirck, Louis K. Gutman, Seymour Mandelbaum, G. R. Sinnickson, Allan L. Carter, Dr. A. R. L. Dohme, Eugene Levering, William J. Chapman, Gen. J. Kemp Bartlett, Gen. Lawrason Riggs, D. C. Ammidon, A. A. Brager, Charles T. Crane, James W. Chapman, Jr., Frank R. Kent, Charles M. Harwood, Max Hochschild, Col. Jacob W. Hook, Maj. John Philip Hill, Dr. Guy L. Hunner, Oscar Leser, Hon. W. Cabell Bruce, Atty. Gen. Albert C. Ritchie, William H. Maltbie, Hon. Alfred S. Niles, Samuel C. Rowland, James R. Wheeler, Jos. C. France, Eben A. Heinz, Charles F. Harley, A. S. Goldsborough, Ralph Robinson, Albert M. Sproesser, Charles H. Heintzeman, William F. Broening, Jacob France, Siegmund B. Sonneborn, Leon Greenbaum, Maj. Jas. W. Denny, Theodore Mottu, William S. Norris, Eli Strouse, John J. Hanson, John H. Ferguson, Harry Busick, William O. Atwood.

BALTIMORE COUNTY: Gen. Felix Agnus, Stuart Olivier, Robert Garrett, Carl R. Gray, A. W. Thompson, John R. Bland, James C. Gorman, Dr. Henry Barton Jacobs, Albert Hutzler, James Carey Martien, Herbert Sheridan, James E. Ingram, Key Compton, John Trainor, Edward H. Bouton, Patrick Flanigan, William Gisriel, Jr., William P. Bigelow, John Hiltz, William H. Church.

CALVERT COUNTY: Hon. John B. Gray, George W. Dowell.

CAROLINE COUNTY: Hon. Harvey L. Cooper.

CARROLL COUNTY: Hon. Wade D. H. Warfield, Hon. John H. Cunningham, Hon. Richard S. Snader.

CECIL COUNTY: Dr. Thomas S. Baker, Hon. Fredk. H. Loeffler.

CHARLES COUNTY: Hon. John F. Mudd, W. Mitchell Diggs.

DORCHESTER COUNTY: George W. Woolford, Albanus Phillips.

FREDERICK COUNTY: Reno S. Harp, James H. Gambrill, Jr., Milton G. Urner, John S. Newman.

GARRETT COUNTY:	Gilmor S. Hamill, Julius C. Renninger.
HARFORD COUNTY:	Hon. Thomas H. Robinson, Hon. J. J. Archer, H. A. Whitaker.
HOWARD COUNTY:	Hon A. P. Gorman, W. Bladen Lowndes.
KENT COUNTY:	Harrison W. Vickers, H. H. Barroll, A. Parks Rasin.
MONTGOMERY COUNTY:	Dr. Eugene J. Jones, Thomas Dawson, J. Dawson Williams, Gist Blair.
PRINCE GEORGE'S COUNTY:	Hon. Wm. F. Holmead, James P. Curley, Hon. George W. Waters, Jr., Hon. Oliver Metzerott.
QUEEN ANNE'S COUNTY:	William McKenney, Charles F. Rich.
ST. MARY'S COUNTY:	Benjamin Coombs, Hon. Wm. F. Chesley.
SOMERSET COUNTY:	Hon. Joshua W. Miles, Robert F. Duer, Dr. Gordon T. Atkinson, James G. Tawes.
TALBOT COUNTY:	Charles J. Butler, Hon. W. Oscar Collier, Thomas M. Bartlett, Frank G. Wrightson.
WASHINGTON COUNTY:	Vernon Simmons, Dr. J. Mcpherson Scott, Elias B. Hartle.
WICOMICO COUNTY:	Hon. Marion W. Brewington, L. W. Gunby, Walter B. Miller.
WORCESTER COUNTY:	Hon. Orlando Harrison, Quince Ashburn, H. Clay Powell.

INFORMATION COMPILED BY DEPARTMENT OF LEGISLATIVE REFERENCE.

TABLE A.

AREA OF COUNTIES TAKEN FROM VOLUME 6, MARYLAND GEOLOGICAL SURVEY, AND POPULATION FROM THE CENSUS OF 1910.

County:	Square Miles.	Population 1910.
Baltimore County	646.8	122,349
Allegany	440.5	62,411
Anne Arundel	430.4	39,553
Calvert	216.8	10,325

Caroline	317.4	19,216
Carroll	445.3	33,934
Cecil	374.6	23,759
Charles	462.0	16,386
Dorchester	573.2	28,669
Frederick	660.0	52,673
Garrett	681.0	20,105
Harford	439.8	27,965
Howard	249.1	16,106
Kent	281.0	16,957
Montgomery	517.6	32,089
Prince George's	479.6	36,147
Queen Anne's	363.4	16,839
St. Mary's	269.1	17,030
Somerset	328.6	26,455
Talbot	267.1	19,620
Washington	457.3	49,617
Wicomico	368.9	26,815
Worcester	491.5	21,841

TABLE B.

ASSESSABLE BASIS OF ALL THE COUNTIES AND BALTIMORE CITY, TAKEN FROM TABLE B OF THE REPORT OF THE STATE TAX COMMISSION.

Allegany	$36,731,612.71
Anne Arundel	22,900,901.07
Baltimore City	738,517,175.91
Baltimore	172,494,370.68
Calvert	3,042,376.22
Caroline	10,748,069.54
Carroll	26,655,877.58
Cecil	16,433,235.90
Charles	5,569,084.99
Dorchester	14,326,652.64
Frederick	38,070,987.69
Garrett	11,317,638.09
Harford	18,109,907.79
Howard	12,805,883.49
Kent	10,416,790.48
Montgomery	23,696,007.17
Prince George's	17,057,445.97
Queen Anne's	10,694,839.15
St. Mary's	5,011,363.44
Somerset	8,462,675.56
Talbot	13,306,723.90

Washington	39,437,527.45
Wicomico	13,343,139.18
Worcester	10,276,657.50

C.

The population of Baltimore, according to the United States Census of 1870 was 267,354. The Census of 1880 gave the city a population of 332,313, which was an increase of 64,959 during the ten-year period. The Census of 1890 gave the city a population of 434,439, which was an increase of 102,126. The Census of 1890, of course, included the territory annexed in 1888. Assuming, however, that the population of the city would have increased to the same extent from 1880 to 1890 as it did from 1870 to 1880, namely 64,959, the population of the territory annexed would have been 37,167 in 1890. Of course, the population would not have been quite so much in 1888.

The Sun Almanac for 1889 states that 35,980 inhabitants were added to the city by the annexation of 1888. It seems that a police census was taken June 19, 1888, in which the population of the city was given as 416,805 and the population of what was then known as the 21st and 22d wards (the annex) was given as 35,980. This census, however, was not published in the report of the Police Department for 1888 and 1889, though the census of voters taken in April, 1889, was published. However, the police census taken in November, 1890, gave the total population of the city as 455,427. This same census gave the population of the 21st and 22d wards as 40,755. You will observe, however, that the police census of November, 1890, is about 16,000 more than the United States Census taken earlier during the same year. All of this would seem to indicate that the population annexed to the City of Baltimore in 1888 was from 35,000 to 37,000.

TABLE D.
AREA AND POPULATION OF CITIES.

City.	Estimated Population July 1, 1914.	Land Area in Sq. Mi. July 1, 1913.	Population per Sq. Mi. 1914.
New York.....	5,333,537	286.8	18,945

Chicago	2,393,325	184.4	12,925
Philadelphia	1,657,810	130.2	12,733
St. Louis	734,667	61.1	12,024
Boston	733,802	43.1	17,025
Cleveland	639,431	51.6	12,392
Baltimore	579,590	30.1	19,255
Pittsburgh	564,878	38.8	14,559
Detroit	537,650	41.7	12,893
Buffalo	454,112	38.9	11,674
San Francisco	448,502	46.5	9,645
Los Angeles	438,914	106.1	4,137
Milwaukee	417,054	24.1	17,305
Cincinnati	402,175	68.6	5,863
Newark	389,106	23.2	16,772
New Orleans	361,221	196.0	1,843
Washington, D. C.	353,378	60.0	5,890
Minneapolis	343,466	50.1	6,855
Seattle	313,029	58.6	5,344

Note: The above compilation is taken from United States Census Bulletin No. 126, which was issued July 30, 1914.

TABLE E.

BALTIMORE FAVORED BY LOW TAX RATE.

Baltimore has the lowest tax rate of any city of its class in the United States. In the last 16 years the taxable basis of Baltimore City has more than doubled, as the following table will indicate:

Year.	Taxable Basis.	Tax Rate.
1901	$402,816,097	$1.81½
1902	431,082,122	1.95½
1903	440,153,153	1.86¾
1904	491,921,328	2.06
1905	503,144,182	2.11½
1906	548,522,063	2.00
1907	595,791,882	1.97½
1908	624,482,590	2.00
1909	655,401,372	1.95
1910	682,633,316	1.99
1911	698,135,168	1.98
1912	723,800,340	1.89
1913	741,909,312	2.01
1914	781,691,094	1.98
1915	818,102,313	1.92
1916	835,686,178	2.13
1917	868,426,115	1.98

The Census Bureau of the United States Government in a bulletin last year gave the following per capita costs of running the following-named cities:

Baltimore	$1.70
Cleveland	2.13
Detroit	2.21
St. Louis	2.30
Philadelphia	2.64
Chicago	2.90
Boston	2.91
Pittsburgh	3.13
New York	3.44

TABLE F.
TAX RATES OF OTHER MARYLAND CITIES.

	Town Rate.	County Rate.	Total Rate.
Annapolis	$0.95	$0.98	$1.93
Belair	0.75	0.90	1.65
Berlin	0.35	1.30	1.65
Betterton	1.00	1.44	2.44
Boonsboro	.050	0.91	1.41
Cambridge	0.45	1.40	1.85
Capitol Heights	0.45	1.35	1.80
Centreville	0.40	1.25	1.65
Chestertown	0.50	1.44	1.94
Cumberland	1.00	1.27	2.27
Easton	0.60	1.24	1.84
Ellicott City	0.10	1.00	1.10
Emmittsburg	0.30	1.05	1.35
Federalsburg	0.40	1.19	1.59
Frederick	1.10	1.05	2.15
Frostburg	0.50	1.27	1.77
Gaithersburg	0.50	1.14	1.64
Grantsville	0.30	1.28	1.58
Hagerstown	0.85	0.91	1.76
Hampstead	0.25	0.88	1.13
Havre de Grace	0.85	0.90	1.75
Hillsboro	0.25	1.19	1.44
Hyattsville	0.75	1.35	2.10
Laurel	0.99	1.35	2.34
Leonardtown	0.35	1.00	1.35
Lonaconing	0.55	1.27	1.82
Mt. Rainier	0.20	1.35	1.55
Oakland	0.70	1.28	1.98

Ocean City	1.00	1.30	2.30
Rockville	1.28	1.14	2.42
Salisbury	0.58	1.40	1.98
Westminster	0.50	0.88	1.38

TABLE G.

BALTIMORE COUNTY TAX RATE, 1882-1916.

1882	$0.54	1900	$0.90
1883	.60	1901	.85
1884	.60	1902	.78
1885	.60	1903	.65
1886	.67	1904	.67
1887	.60	1905	.64
1888	.61	1906	.72
1889	.36	1907	.72
1890	.63	1908	.75
1891	.54	1909	.79
1892	.70	1910	.98
1893	.70	1911	.84
1894	.70	1912	.88
1895	.70	1913	.87
1896	.80	1914	1.00
1897	.63	1915	1.04
1898	.80	1916	1.06
1899	.80		

In 1914 and 1915, special taxes were levied in the following districts:

12th Election District	$0.12
Mount Washington	.20
Tuxedo Park	.20
Relay	.20
Lansdowne	.20
Joshua	.20
Overlea	.20
St. Denis	.20
Towson	.10
Lakeland	.10

TABLE H.

BALTIMORE CITY TAXABLE BASIS FOR STATE PURPOSES.

1889	$247,405,270
1915	$599,539,244
Increase	$352,133,974, or 142%

BALTIMORE COUNTY TAXABLE BASIS FOR STATE PURPOSES.

1889	$ 38,570,472	
1915	$155,623,354	
Increase	$117,042,882,	or 303%

ANNE ARUNDEL COUNTY TAXABLE BASIS FOR STATE PURPOSES.

1889	$ 9,941,279	
1915	$ 20,991,531	
Increase	$ 11,050,252,	or 111%

Note: The basis for 1915 includes securities at the special fixed rate of 45 cents for State and local purposes, the assessment on securities being $1,183,711.

TABLE I.

EXPORTS OF GRAIN FROM THE PORT OF BALTIMORE.

1910	13,452,984	bushels
1911	20,358,392	"
1912	33,784,379	"
1913	46,857,881	"
1914	51,451,422	"
1915	90,171,602	"
1916	99,964,553	"

TABLE J.

RECENT IMPROVEMENTS.

Modern Sewerage System, cost		$23,000,000.00
Improved and Enlarged Water Supply and Filtration Plant, adequate to provide pure filtered water for a million people, cost		5,000,000.00
Harbor Improvements—Building new City Piers Nos. 1, 2, 3, 4, 5, 6, 7 and 8; the Commercial and Recreation Pier at the foot of Broadway; opening and constructing Key Highway, to connect the inner harbor and Middle Branch on Spring Garden; opening of McComas street; and dredging the harbor; total cost		8,500,000.00
New School Buildings—		
New Polytechnic	$990,358.25	
New School—Stiles and Gough streets	138,545.69	

New School—Francis street and Clifton avenue	62,625.94
New Addition—Millington lane and Lehman street	21,000.00
New School—Mulberry and Payson streets	144,682.54
New School—North avenue and Washington street	94,707.85
New School—Reisterstown road and Fifth avenue	122,577.62
Addition to Western High School.	184,422.06
New School—Windermere avenue, Waverly	178,524.29
New School—William street and Warren avenue	166,280.37
New School—South Ann street...	191,529.13
New Addition — Patterson Park avenue and McElderry street.	22,035.35
New School—Scott and Hamburg streets	221,963.39
New School—Fayette and Chester streets	145,246.64
New Addition—Ninth and Northwest streets	44,576.00
New Addition—Hull and Clement streets	17,207.00
New School — Philadelphia and Lakewood avenues	108,584.36
New Addition—Gorsuch avenue and Tyler street	32,565.91
New School—Jefferson and Caroline streets	145,000.00
Total	$3,032,432.39
109 streets opened, at a cost of	$2,507,173.46
192 miles new, modern paving, all done within the last four years, at a cost of	6,830,000.00
1,018 miles of conduits for putting wires and cables underground, owned by the City; cost	5,267,000.00
High Pressure Pipe Line Water Service for protection against fire—not surpassed in the world; cost	1,000,000.00
The "White Way" in all the business section. The finest lighting system in the world; cost	80,000.00
The Fallsway—modern boulevard a mile long, on	

top of old Jones' Falls; cost..... 1,000,000.00
Three new bridges: Pratt street, over the Fallsway; Monroe street, over the B. & O.; Bentalou street, over the Western Maryland; cost.. 150,000.00

Total.....$55,765,605.85

NOTE: The Conduit System was begun in 1899. The Sewerage System was begun in 1905 and completed in 1916. The Piers were built and the Pratt street bridge and the High Pressure Pipe Line were begun prior to 1911. All the other improvements above mentioned have been made within the last six years.

BALTIMORE CITY'S DEBT.

Jan. 1, 1917—Gross Debt.....$94,209,579.50
" " " —Amount in Sinking Fund. 28,495,317.20

" " " —Net Debt.....$65,714,262.30

As against this debt, the City has public property, as shown in the Comptroller's Report for 1915 (page 231), amounting to $120,904,458.39.

These assets include water works, wharves and docks, municipal markets, electrical conduits, City Hall, Court House, public schools, fire-engine houses, police stations, etc.

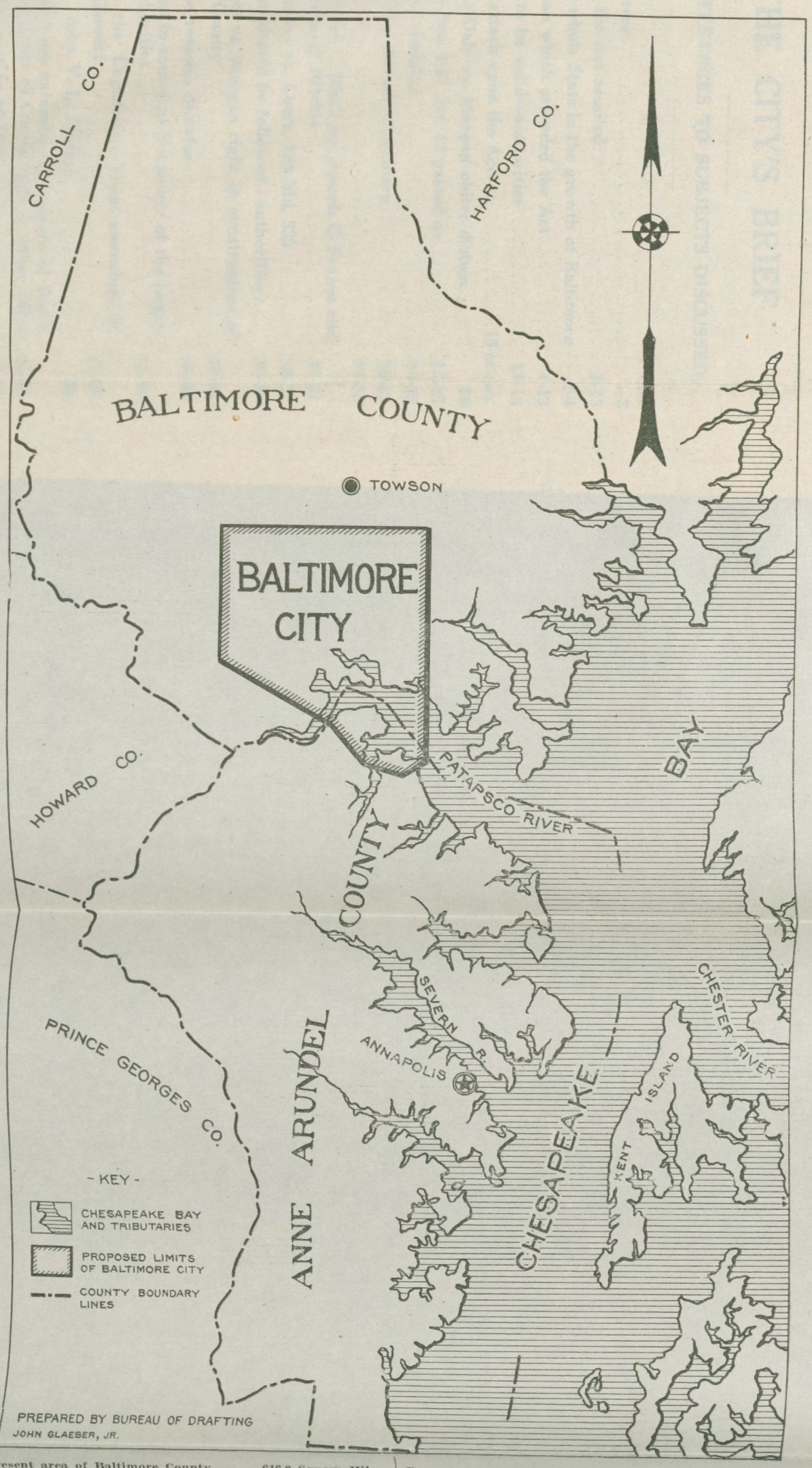
Of the City's debt $6,685,000.00 are Burnt District Loans, representing money which the City had to borrow and spend as a consequence of the Great Fire of 1904.

The total cost of this calamity to the taxpayers of Baltimore was more than $11,000,000.00, as the City, in addition to the Burnt District Loan used in the Burnt District $4,422,460.74 out of the money which had been received from the sale of the stock in the Western Maryland Railroad.

In addition to the more than $11,000,000 which the City has had to spend since 1904, as a result of the great conflagration, the City has expended in public improvements, since 1904, $60,000,000.00 (the bulk of the same having been made since 1910), as shown in Table J above.

The average tax rate for the six years, 1912-1917, is $1.98½, about the same as the average for 16 years prior to 1912, which was $197.

Map Showing Proportionate Size of Anne Arundel County, Baltimore County and Baltimore City After the Passage of the Non-Partisan Greater Baltimore Extension League Bill



Present area of Baltimore County	646.8 Square Miles
Area proposed addition to City	46.5 Square Miles
Will be left to County	600.3 Square Miles
Population of Baltimore County	140,000
Population which will be added to Baltimore City by passage of Bill	65,000
Population which Baltimore County will have after Bill is passed	75,000
Population of Allegany County—second in population in the State	62,411
Population required for six Delegates (the number Baltimore County now has)	55,000
Assessable basis of Baltimore County (as per Report of State Tax Commission)	$172,494,370.68
Assessable basis of Baltimore County which will be taken into Baltimore City	70,000,000.00
Wealth of Baltimore County after passage of Bill	$102,494,370.68
Wealth of Washington County, the second richest county in the State (as per Report of the State Tax Commission)	$39,437,527.45

Present area of Anne Arundel County	430.4 Square Miles
Area proposed addition to City	4.5 Square Miles
Will be left to County	425.9 Square Miles
Population of Anne Arundel County, according to Census of 1910, was 39,153, but now is probably	44,000
Population in the portion of Anne Arundel County included in Bill not more than	4,000
Population of Anne Arundel County after Bill is passed, at least	40,000
Population of Dorchester County—the most populous county on the Eastern Shore	28,669
Population required for four Delegates (which Anne Arundel County now has)	28,000
Assessable basis of Anne Arundel County (as per Report of State Tax Commission)	$22,900,901.07
Assessable basis included in Bill, not over	5,000,000.00
Assessable basis of Anne Arundel County after passage of Bill, about	$18,000,000.00
Assessable basis of Cecil County, the richest county on the Eastern Shore (as per Report of State Tax Commission)	$16,433,235.90

Map Showing Proportionate Size of Anne Arundel County, Baltimore County and Baltimore City After the Annexation of the Northern Part of Baltimore County to Baltimore City

Passage of the Act Extending Baltimore's Limits

THE CITY'S BRIEF

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The Daily Record Print, Baltimore, Md.

MORRIS WHITRIDGE

vs.

N. BOSLEY MERRYMAN, TREASURER OF BALTIMORE COUNTY, ET ALS.

IN THE

Court of Appeals

OF MARYLAND.

APRIL TERM, 1918.

Specially Assigned.

BRIEF FOR APPELLANT.

This is an appeal by the plaintiff from a decree of the Circuit Court of Baltimore County, sitting in Equity, refusing an injunction prayed by the bill and dismissing the bill.

On June 3, 1918, Morris Whitridge, a resident and owner of real estate in the territory annexed to Baltimore City by the Act of 1918, Chapter 82, applied to the Treasurer of Baltimore County for the tax bill of his property situated as aforesaid. The Treasurer sent him the bill for State taxes for the current year and also for the County taxes for the entire fiscal year. The county fiscal year runs from May 1st to the following April 30th, inclusive (Baltimore County Code (1916), Secs. 117, 124, 125, 132, 145 and 148). Thereupon the plaintiff tendered to the Treasurer a sum equal to the amount of the State taxes for the year plus the amount of the County taxes for two-thirds of the fiscal year, namely: May 1st to December 31st, 1918. The Treasurer refused to accept

the same and the plaintiff filed his bill asking for a mandatory injunction compelling the Treasurer to accept the amount so tendered and enjoining the Treasurer from demanding or collecting any greater sum from the plaintiff on account of the taxes on the said property for the fiscal year 1918-19. The bill was filed June 8, 1918. The Court declined to pass any order on the bill, exhibits and affidavit, except an order to show cause. Answer was filed by the Treasurer, asserting that the Act of 1918, Chapter 82, is invalid for various reasons set out in detail. The Court permitted Dr. Lucas and his wife to intervene as co-defendants and file an answer. Replication was filed, certain testimony taken and the Court, on June 26, 1918, passed a decree denying the injunction and dismissing the bill, from which the plaintiff appealed.

The sole question involved is the validity of the Act of 1918, Chapter 82, enlarging the boundaries of Baltimore City.

A.

The Act of 1918, Chapter 82, is one of unusual importance and public concern. It is the result of widespread public interest and discussion extending over a series of years.

THE VALUE OF A CITY TO A STATE.

History and observation bear witness to the importance of cities. The world to-day remembers the great states of antiquity chiefly in the history of their great cities—Nineveh, Jerusalem, Babylon, Athens, Carthage, Rome.

In proportion as these cities grew and flourished, their nations grew and flourished. When the city fell, the nation fell. The greatest states in the world to-day are the states of great cities.

Building a city changes land worth ten to one hundred dollars per acre, into built-up blocks worth from an hundred thousand to millions of dollars per acre, thereby increasing the State's revenue a thousandfold; brings about that co-operation of labor and capital necessary for great industrial enterprises, which result in increased demand for labor and a new market for the products of farm, forest, mines and waters, thereby increasing land values and labor values throughout the State; helps to create and sustain land and water transportation companies which benefit both city and country; erects hospitals and schools of learning, whose benefits are not confined by the city's boundaries; builds great churches which furnish aid to smaller churches throughout the State; and opens wide the door of opportunity for the sons and daughters of the State who wish to try their fortunes on a larger scale in professional or business careers.

These benefits which a State receives from a city within its borders, increase and grow greater and greater, in proportion as the city develops and prospers.

Maryland has only one large city, but that city possesses advantages which afford the opportunity for the development of one of the greatest manufacturing and commercial centers of the world. Its situation at the head of a bay 200 miles long renders it remarkably se-

cure from hostile attack, or storms, or tidal waves; and gives it a great advantage in the small variation between high and low tide, which does not exceed fifteen inches. Its ample harbor is capable of accommodating unlimited commerce. By reason of being so far inland it has a shorter haul for freight and a lower freight rate to and from the great western country. It is located far enough south to be comparatively free from ice blockade. It is protected by the surrounding hills and nearby mountains, from damaging land storms. The bounteous food supply from the Chesapeake Bay and its tributaries, added to that from the ample trucking sections within easy reach give it an advantage in the cost of living over many other cities. Its early fame as a shipbuilding center is about to be regained, and its present fame for remarkable progress and public improvement in recent years helps to attract population and business. The connection between extending the territorial limits of this chief city of Maryland and its growth and development was referred to by the Court of Appeals in the case of Daly vs. Morgan, 69 Md. 465, as follows:

> "No one knew better than the framers of the Constitution of 1867 that the time must come, and that not far distant, when the extension of the limits of a great city like Baltimore would be absolutely necessary to its proper growth and development."

IMPORTANCE OF THE ACT.

The importance of the Act of 1918, Chapter 82, is further illustrated by the public discussion which preceded its passage. Acts to extend the City limits were introduced in the Legislatures of 1912, 1914 and 1916. The Act of 1916 aroused a prolonged and bitter fight in

the Senate, where it passed its second reading by a vote of sixteen to eleven, but failed of passage on the third reading by a vote of fourteen to thirteen.

The whole subject was thoroughly discussed in the newspapers and on the floor of the Senate and immediately after the adjournment of the Legislature of 1916, there was begun the organization of a Statewide Non-Partisan Greater Baltimore Extension League, for the purpose of securing the passage of a bill for the extension of the limits of Baltimore City by the Legislature of 1918. The campaign for this purpose was kept up for two years. The League was regularly organized and included in its officers, board of directors and membership, many of the most prominent men, both Republicans and Democrats, in the State. The present Mayor of Baltimore was elected president of the League, and former Governors Lloyd, Brown, Warfield and Goldsborough, and former Mayors Timanus and Mahool were elected vice-presidents. A committee was appointed to draft a fair and reasonable bill, in advance of the meeting of the Legislature, composed of former Chief Judge of the Supreme Bench of Baltimore City, Henry D. Harlan, Chairman; former Judge of the Court of Appeals, W. Laird Henry, and Messrs. Benjamin A. Richmond, W. L. Marbury, George R. Gaither, W. Calvin Chesnut, John F. Mudd, Alex. R. Hagner, John H. Richardson, James P. McGovern and S. S. Field. Three members beside the chairman were residents of Baltimore City, two were residents of that portion of Baltimore County proposed to be annexed to the city, one was a resident of Dorchester County, one of Charles County, one of Washington County, one of Allegany County, and one, Mr. James

P. McGovern, was a lawyer residing in New York City, but Vice-President and General Attorney of one of the largest manufacturing industries in the portion of Anne Arundel County proposed to be annexed. This Committee, organized by the selection of Judge Harlan as chairman and Mr. Chesnut as Secretary; held repeated meetings extending over several months, including four public meetings; invited suggestions and criticisms from the public; sent special invitations to the County Commissioners of Baltimore County and to the County Commissioners of Anne Arundel County, and to the Citizens League in opposition to Annexation, which had been formed in Baltimore County; and after considering the matter from their first meeting on February 28th, 1917, through the months of February, March, April and May, finally concluded their draft of the bill and the same was reported to and endorsed by a general mass meeting of the League held on June 7th, 1917.

Thereafter this bill, which was known as the Non-Partisan Greater Baltimore Extension League Bill, was presented to the Conventions of the Democratic and Republican parties and both Conventions were urged to endorse the Bill and thereby keep the question out of politics.

In their unanimous report, signed by all the eleven lawyers who prepared the Bill, they said:

> "There is no politics in the proposed bill; but simply a matter affecting the best development from the standpoint of business, commerce, health and good government of this part of the State, and directly promoting the general welfare of the entire State. The passage of the proposed bill will not give Baltimore City a single additional vote in the Legis-

lature nor will it deprive Baltimore or Anne Arundel County of a single vote in the Legislature. The Committee, therefore, recommend to the League the approval of this bill and express the hope that it may be approved and passed by the Legislature solely on the ground that they believe it to be a matter which will promote the public welfare."

The convention of one party rejected the League Bill and declared in favor of a bill extending the City limits conditioned upon the approval at a referendum to the voters in the territory to be added. The convention of the other party endorsed the bill as presented and specifically pledged their party to the enactment of the bill without change, by the Legislature of 1918.

Thus the question of referendum vel non was made a direct issue before the people. This became the chief issue in the campaign. It was the chief topic of discussion in the newspapers and on the hustings.

The question of the construction of Section 1 of Article 13 of the Constitution and of the effect of the decision in Daly vs. Morgan, were discussed at great length at the hearings before the Judiciary Committee of the House and the Committee on Judicial Proceedings of the Senate. Four hearings of two or three hours each were given each side in the House of Delegates and the Senate Chamber, respectively, so as to give an opportunity for all the Members and Senators to hear the discussions. Printed arguments were also used on both sides.

QUESTION OF REFERENDUM.

Experience had shown the difficulty, not to say the impossibility, of obtaining an Act extending the City

limits *on terms fair to the City,* if the Act contained a referendum to the voters in the territory to be annexed. It had been tried twice. The Act of 1874, Chapter 224, providing for the extension of the limits of Baltimore City *with* a referendum had been defeated by the voters at the referendum. The growth of the City territorially was thereby set back for fourteen years.

By the Act of 1888, Chapter 98, another effort for City Extension was made, this time with *three referendums* to three sections separately. In order to induce the voters to vote in favor of annexation, terms were offered in the matter of taxation which were unjust and burdensome to the City.

This inducement, however, did not prevent the defeat of annexation in the Eastern Section, which was the most populous of the three, and in which the need of City government was greatest.

RESULTS OF THE REFERENDUM IN 1888.

One result of the referendum was that Cleveland passed Baltimore in the Census of 1910 by the narrow margin of 2,100.

If the Act of 1888 had been passed *without a referendum,* bringing in the Eastern as well as the Northern and Western sections, the population of Baltimore would have been from 20,000 to 30,000 larger than that of Cleveland in 1910.

The tremendous development which has taken place in the Northern and Western sections, which

came into the City, as compared with the Eastern section, which did not come in, is a striking commentary on the importance to the City, *and to the State,* of giving the State's chief city ample room in which to grow.

The northern and western sections, which came in, have a population now of about 200,000. The eastern section, which stayed out, has a population of about 40,000.

The taxable basis of the northern and western sections, which came in, was in 1889, $21,976,699, and now is about $200,000,000.

The taxable basis of the eastern section, which did not come in, is now less than $15,000,000.

(The whole Twelfth District is $17,637,988.)

The taxes which the State will receive for 1918 from the northern and western sections which came in will equal about $630,000.

The taxes which the State will receive for 1918 from the eastern section which did not come in will equal about $63,000.

UNFAIR TERMS OF ACT OF 1888.

In an advertisement published during the campaign by the Baltimore County Committee opposing City Extension it was stated that the northern and western sections, which came in, in 1888 had cost the City of Balti-

more $15,000,000 more than the City had collected from those sections in taxation; and in the argument before the Senate Committee on Judicial Proceedings, Mr. D. G. McIntosh, a member of the House of Delegates from Baltimore County, used the very expressive metaphor that the Annexation Act of 1888 had been a millstone around the City's neck ever since.

The overgenerous terms as to taxes offered to the people in the Annex by the Act of 1888, Chapter 98, as an inducement to get them to vote to come in, have been a source of controversy and litigation ever since, and *in this very case furnish one of the grounds of contention* against the validity of the Act of 1918, Chapter 82.

One ground of attack on the present Act is that taxes on one class of real estate in the Annex of 1888, after the property has been in the City for 30 years, are lower than the tax rate provided in this Act for the new territory.

ANNEXATION OF 1816 WITHOUT A REFERENDUM.

Prior to 1816 the City included about 1½ square miles. By the Act of 1816, Chapter 209, its area was extended to include 13 square miles. Within fourteen years, by the Census of 1830, the City showed a gain of 75 per cent. over the Census of 1810; passed Philadelphia and became and remained for twenty years the second city in the Union.

With these experiences in mind: the successful annexation of 1816 without a referendum; the entirely abortive

attempt at city extension in 1874; the partial defeat of the plan for city extension in 1888, and the one-sided terms of that extension; and in view of the fact that the Court of Appeals *after* the passage of the Act of 1888 had determined that it was *not necessary* to have a referendum to the voters in the territory to be annexed; those favoring city extension determined by the bill which was introduced in 1916 to ask the *Legislature* to pass on the question and to give city extension on such terms as to the *Legislature might seem fair,* and not submit this question of such great importance to the City and to the entire State to the possible veto by a bare majority of the comparative few voters residing within the territory proposed to be annexed.

PUBLIC DISCUSSION OF DALY VS. MORGAN.

This immediately brought forth the contention from the opponents of city extension that the opinion of the Court of Appeals in Daly vs. Morgan was not a decision, but an *obiter dictum.* Thereupon, in March, 1916, the opinions of leading members of the bar, Messrs. Joseph C. France, George R. Gaither, William L. Marbury, George Whitelock, Alexander Hagner and Richard Dallam, were obtained and published, all of them concurring in the view that the Court of Appeals in Daly vs. Morgan had decided, *not as obiter dictum, but as a part of the deliberate judgment of a majority of the Court,* that the provisions of Section 1 of Article 13 of the Constitution do not apply to an Act extending the limits of Baltimore City, and that the Legislature has plenary power to pass such an Act with or without a referendum.

With the advantage of all the publicity which had preceded, after hearing the arguments pro and con and knowing that the passage of this bill had been the chief issue in the campaign, the Legislature passed the Non-Partisan Greater Baltimore League Bill as presented by the Committee of the League, who prepared it, without any amendment and without any referendum, and by sixty-one votes in the House and eighteen in the Senate.

This Act is not only an *Act of a Legislature authorized* to speak for the people, but its passage was attended by circumstances giving peculiar evidence of the fact that *in passing this Act,* the Legislature *was speaking the voice of the people.* This is further indicated by the failure of the opponents of City Extension to attempt to have the Act submitted to a state-wide referendum, under Article 16 of the Constitution, which was adopted as proposed by the Act of 1914, Chapter 673.

By the provisions of this referendum amendment, the present Act could have been submitted to the vote of the people of the entire State upon a petition signed by 10,000 voters, provided not more than 5,000 came from one county. With the character of the opposition to this Act, especially in Baltimore County, and, to a lesser degree, in Anne Arundel County, it would not have been difficult to have gotten 10,000 signers to a petition for a state-wide referendum on the Act, and the fact that no attempt was made to have the Act submitted to a state-wide referendum indicates pretty strongly that those opposed to the Act were convinced that it expresses the wish of a majority of the voters of the State.

In view of the circumstances preceding and attending the passage of this Act and the failure of any effort to have it submitted to a state-wide referendum, the principle that every intendment should be made in favor of the validity of the Act is especially applicable.

STATUTE, PRESUMED TO BE VALID, CANNOT BE DECLARED VOID UNLESS IT VIOLATES SOME PROVISION OF THE CONSTITUTION—EVERY REASONABLE DOUBT RESOLVED IN ITS FAVOR.

In Fell vs. State, 42 Md. 89, the Court, through Chief Judge Bartol, said:

> "Every intendment ought to be made in support of the legislative enactment, and it is not to be declared invalid, except for the plainest and most conclusive reasons."

In Baltimore Fidelity Warehouse Co. vs. Canton Lumber Co., 118 Md. 147-8, this Court, through Pattison, J., said:

> "It will be borne in mind that every presumption is in favor of the existence of the statute and that a clear case must be established before the presumption is overthrown."

In Painter vs. Mattfeldt, 119 Md. 472, Judge Burke, speaking for this Court, said:

> "Every presumption favors the validity of the statute; it cannot be stricken down as void unless it plainly contravenes some provision of the Constitution; a reasonable doubt as to its constitutionality is sufficient to sustain it, and the party assailing the Act must point out the special provision of the Constitution to which it is obnoxious. 'Plenary power in the Legislature for all purposes of civil government is the rule. A prohibition to exercise a particular power is *an* exception.'"

In Cooley on Constitutional Limitations, 7th Ed., page 253, it is said:

> "A reasonable doubt must be solved in favor of the legislative action, and the Act be sustained."

On the same page, referring to Ogden vs. Saunders, 12 Wheaton, 269, Cooley says:

> "Mr. Justice Washington gives a reason for this rule, which has been repeatedly recognized in other cases which we have cited. After expressing the opinion that the particular question there presented, and which regarded the constitutionality of a State law, was involved in difficulty and doubt, he says: 'But if I could rest my opinion in favor of the constitutionality of the law on which the question arises, on no other ground than this doubt so felt and acknowledged, that alone would, in my estimation, be a satisfactory vindication of it. It is but a decent respect due to the wisdom, the integrity and the patriotism of the legislative body by which any law is passed, to presume in favor of its validity, until its violation of the Constitution is proved beyond all reasonable doubt.'"

And states the doctrine, as follows, on pages 236-37:

> "The courts are not the guardians of the rights of the people of the State, except as those rights are secured by some constitutional provision which comes within the judicial cognizance. The protection against unwise or oppressive legislation, within constitutional bounds, is by an appeal to the justice and patriotism of the representatives of the people. If this fail, the people in their sovereign capacity can correct the evil; but the courts can not assume their rights. The judiciary can only arrest the execution of a statute when it conflicts with the Constitution. It can not run a race of opinions upon points of right, reason and expediency with the lawmaking power."

B.

GROUNDS OF THE ATTACK UPON THE ACT OF 1918, CHAPTER 82.

I.

The principal objection, and the one held to be good by Judges Duncan and McLane, is that the Legislature was forbidden by Section 1 of Art. XIII of the Constitution to pass the Act without a referendum to the voters in the territory added by the Act to the City. In Daly vs. Morgan, this Court, passing upon this precise point, said (69 Md. 467):

> "The Legislature has, therefore, in our opinion, the same power now which it has always exercised, to extend the limits of Baltimore City by including therein parts of Baltimore County, and this, too, *with or without the consent* of a majority of the voters residing within the districts annexed."

This statement of this Court is not only clear, it is emphatic. The words "with or without the consent" appear in italics in the original edition of 69 Md. reports.

This clear and emphatic pronouncement of this Court puts an end to the objection now being considered, unless for some reason it should be considered not binding upon your Honors who now compose this Court. Judges McLane and Duncan did not consider it binding on them. They expressed the opinion that this part of this Court's opinion in Daly vs. Morgan was a mere obiter dictum—something said by the way, a passing remark—and therefore may be disregarded. They "called it Nehushtan."

In his Opinion Judge McLane said:

> "It is only for the higher court itself to overrule or depart from its own deliberate judgments. This Court cannot question them. But where in rendering its decision the Court of Appeals has gone outside of the record of the case before it and has discussed and decided questions not germane to the issue presented, its decision thereon can have no binding force, whatever persuasive force it may have as a matter of reasoning or logic. As the late Chief Justice McSherry once remarked to a member of the Bar, who was quoting from an earlier opinion of the Court of Appeals in support of his argument: 'Never mind what we *said*, tell us what we *decided* in that case.' "

It is a singular coincidence, that, in attempting to justify his view that a portion of this Court's opinion, formally delivered and italicized by the Court, was a mere passing remark, or obiter dictum, Judge McLane *quotes an obiter dictum:* not what was *decided*, but what was *said*, by Judge McSherry, *not in the opinion*, but a mere passing remark made from the Bench at the time of the oral argument, of some case. If Judge McLane was so impressed by what Judge McSherry *"remarked" orally* from the Bench it would seem that His Honor *should have been impressed by the fact that Judge McSherry concurred in the opinion in Daly vs. Morgan.* Judge Duncan, in his opinion, reached the conclusion that this Court's opinion was obiter dictum, because his Honor said:

> "the question was not raised by the pleadings and was not mentioned in the briefs, as disclosed by the record."

The learned Judge was mistaken.

The *proper construction and effect of Section 1 of Article XIII of the Constitution were distinctly put in*

issue by the bill and by the briefs of counsel for Daly. The Court was *obliged to construe* that section and *did construe* it. All seven of the Judges *passed* on it. *Two* held that Section 1 of Article XIII applies to an Act extending the limits of Baltimore City, and, *therefore,* the referendum required by that section *was necessary,* or, to use the words of Alvey, Chief J., 69 Md. 474, was "an indispensable condition."

Five Judges decided that the provisions of Section 1 do *not* apply to an Act extending the limits of Baltimore City, and, *therefore,* the referendum required by that section was *not* necessary.

That the Legislature can extend the limits of Baltimore City "with or without the consent of a majority of the voters residing within the districts annexed," is the *necessary result of the Court's construction of Section 1 of Article XIII.*

POINT RAISED IN THE BILL.

The bill of complaint contained this allegation (Record, p. 2) in Daly vs. Morgan:

> "The Act aforesaid is null and void, because the Constitution of Maryland gives no power to the Legislature of Maryland to annex any of the territory of a county to the City of Baltimore, nor does it empower said Legislature to make the annexation of said territory depend upon the majority of the votes cast at an election provided for by legislative enactment, and because the same violates the Declaration of Rights of Maryland, and of the Fourteenth Amendment of the Constitution of the United States, in regard to the uniformity of taxation."

The same contention was made in the brief of W. Frank Mitchell, one of the counsel for Daly. He said (page 2):

> "There is no provision in the Constitution providing for the extension of Baltimore City, but only for changing county lines and forming new counties."

ARGUMENT OF COL. DAVID G. McINTOSH.

The same contention was made in the brief of Colonel McIntosh, also filed for Daly, who, in discussing the above quoted provision of Article 13 of the Constitution, said:

> "This limitation upon the exercise of legislative power involves two propositions. First, the consent of those residing in the district proposed to be changed must be obtained; and, *second, the district so changed must form part of another county.*
>
> "Baltimore County and the City of Baltimore, being separate and distinct municipal corporations for all government purposes, with distinct representation in the State and Federal Governments, it cannot be said that transferring a part of Baltimore County to Baltimore City it will in any sense remain a part of Baltimore County. By such an act the *county's* line will have to be changed.
>
> "Taking the construction of the Constitution repeatedly announced to this Court, viz: that the words used therein must be taken to mean what is usually construed by persons of ordinary intelligence, *it cannot be said* that the words 'form a part of a *county* different from that to which it belonged prior to said change' are synonymous with or in ordinary parlance mean the same as 'form part of *a city or Baltimore City* different from that to which it belonged prior to said change.'"

COURT AGREED WITH COLONEL MCINTOSH'S CONSTRUCTION OF THE WORD COUNTY IN ARTICLE XIII, SECTION 1.

From this reasoning Colonel McIntosh urged that, inasmuch as this section of the Constitution provided only for changing the lines of a county so as to throw a part of that county into another *county,* the Legislature had no power to change the lines of Baltimore County so as to throw a part of that county into the *City of Baltimore,* either with or without a referendum. The Court of Appeals agreed with Colonel McIntosh that the provision of Article 13 does not apply to extending the limits of Baltimore City, but *only applies to changing a county line so as to throw part of one county into another county,* but they *did not agree* with Col. McIntosh's *conclusion.* The Court of Appeals said that the proper conclusion was that as *this provision* of the Constitution *does not apply to enlarging the limits of Baltimore City,* and as there was *no other provision* in the Constitution *which placed any limitation on the power of the Legislature to enlarge the boundaries of the City, the Legislature has full power to extend the City limits either with or without a referendum, as the Legislature may see fit.*

This first objection to the validity of the Act of 1888 was distinctly made to and pressed upon the Court, in the bill and in the briefs, in the following terms, viz.:

That the Legislature has no power to take a part of a county and put it in the city either with or without a referendum.

The Court answered this contention *categorically, by a direct traverse:*

That the Legislature has power to extend the limits of Baltimore City by including therein a part of a county, either *with* or *without* a referendum.

NECESSARY TO THE DECISION.

The contention as raised by the bill, and made in the briefs of counsel for Daly, was that the Constitution by Article XIII had *undertaken to deal with the subject* of changing county lines; that the word "county" in that section meant county and did not mean city; that the Constitution provided for changing a county line by including part of *one county* in *another county,* but did not provide for changing a county line so as to include part of a county in *Baltimore City;* and, therefore, *as the Constitution did not provide for enlarging the City limits,* the Legislature had no power to do it.

Judge McLane thinks that this contention of Colonel McIntosh was so "strained and erroneous" that it begat from the "outraged" judicial minds of Judges Robinson Miller, McSherry, Stone and Irving, an *"obiter dictum."* His Honor Judge McLane says:

> "Outraged no doubt at the *strained and erroneous argument thus advanced,* the majority of the court in the Daly case was, it is submitted, led away not only to discuss a matter not really involved before it or necessary or incident to its decision, but was led into the expression of an opinion therein which gave an unnecessarily literal construction to the word 'county,' and one utterly contrary to the accepted doctrine of uniformity and harmony in the construction of constitutions and statutes."

Such a criticism of an argument by Col. David G. McIntosh sounds strange to those of us who had the

opportunity of hearing him argue cases and admired the logical mind, the scholarly attainments and legal learning of that eminent lawyer.

The opinions in Daly vs. Morgan indicate that his argument received respectful consideration by this Court.

Chief Judge Alvey, in his dissenting opinion, in effect approved one branch of Col. McIntosh's contention, Judge Alvey said (69 Md. 490):

> "It was under the authority of the Constitution that the City limits were extended, and it could only be done in the manner as provided by the Constitution, Art. 13, Sec. 1. By that provision of the Constitution, no terms or conditions are contemplated for the changing of county or city lines, except those therein specified. Any others are without constitutional warrant; and clearly the Legislature has no power over the subject except that derived from the Constitution."

The other part of Colonel McIntosh's contention—that the word "county" in Section 1 of Article 13 means county and does not include Baltimore City—was approved and adopted by five Judges of the Court in their opinion by Judge Robinson.

Colonel McIntosh's failure to win his case was his inability to get a majority of the Court to agree that he was right in *both* of his contentions.

Five thought he was right in his construction of the word county and *two* thought he was wrong. *One* thought he was right in his contention that any power in the legislature to extend the city's limits must be derived from the Constitution, and *five* thought he was wrong.

But the fact that *five* of the Judges thought him right upon *one point, and that Chief Judge Alvey* thought he was right on the *other* point, seems a complete answer to the charge that his argument was so "strained and erroneous" as to "outrage" the Court.

THE POINT PUT IN ISSUE AND DECIDED.

The whole contention and argument turned on the construction of the word "county" in Section 1 of Article 13 of the Constitution.

Does "county" in that section mean county, or should it be construed to include Baltimore City?

In order to pass upon Colonel McIntosh's contention it was *necessary* for the Court to decide:

(1) Whether the word "county" includes Baltimore City. Two members of the Court thought that it does, but five thought that it does not. If the Court had decided that the word "county" in Section 1 of Article 13 includes Baltimore City, then it would have followed that the extension of the limits of Baltimore City would have been subject to the limitation imposed by that section; but when the Court decided that the word "county" does *not* include Baltimore City, it necessarily followed that the Legislature *had no power at all* to extend the limits of Baltimore City, either with or without a referendum, *if its power to do so was derived from Article XIII of the Constitution.* Having decided that the word "county" *does not include city,* and, therefore, that there was no

power *granted to the Legislature by Article XIII* to take a part of a county and put it in Baltimore City, the Court was obliged to go further and decide:

(2) Whether or not the Legislature has power, *outside of the provisions of Article XIII,* to extend the limits of Baltimore City.

The Court decided that the Legislature has plenary power as representing the sovereignty of the people, and *without any grant by the Constitution,* to extend the limits of Baltimore City, and, therefore, *that the exercise of that plenary power which rests in the Legislature as the representatives of the people,* is not affected by the limitation in Article XIII of the Constitution because, as the Court decided, that limitation applies only to the case of the Legislature taking a part of *one county* and putting it in *another county.*

The Court said (69 Md. 464):

> "The object, and sole object, of this provision of Section 1, was to provide for the annexation of parts of one county to another. The entire section, in fact, and the article in which it is to be found, deals exclusively with the organization of 'new counties,' 'the location of county seats,' and the mode by which parts of one county may be annexed to another county, and the limitation imposed upon the legislative power is in respect to these matters and these only."

When the Court decided that the limitation in Section 1 applies only to *"the mode by which parts of one county may be annexed to another county,"* it necessarily decided that the limitation does *not* apply to the *mode by which part of a county may be annexed to Baltimore City.*

Having decided that the limitation does not apply to an act extending the limits of Baltimore City, it follows necessarily that the legislature may pass such an act "with or without the consent of a majority of the voters residing within the districts annexed."

The portion of the opinion of the Court of Appeals in Daly vs. Morgan, above quoted, was not *obiter dictum* for the following reasons:

1. The question whether the word "county" in Section 1 of Article XIII of the Constitution means county only, or whether it also includes Baltimore City, was distinctly presented to, and decided by, the Court, *and was necessary* to the decision. *The Court could not have decided the case without passing on that point.*

2. Having decided that the word "county," *as used in that section,* means county and does not include Baltimore City, it was a *necessary, unescapable conclusion* that the *limitation in that section* requiring a referendum applies *only* to *taking a part* of *one county* and putting it in *another county,* and does *not* apply to taking a part of a county and putting it in Baltimore City.

3. The Court was *divided on that very point,* and, therefore, it is evident that the *judicial mind* of *every* Judge was directed to *that very point.*

In Cumberland C. & I. Co. vs. Sherman, 20 Md. 131. this Court say:

> "All that is necessary to render the decision binding, is to show there was an application of the judicial mind to the

precise question adjudged. Alexander vs. Worthington, 5 Md. 471."

4. Not one of the seven judges thought the point immaterial. While they *differed* as to *how the point should be decided, two* holding that the word "county" should be construed to include Baltimore City, and *five* that it *should not;* it *never occurred to any one of the seven that they were wasting their time, writing an opinion and dissenting opinions, on a matter immaterial to the decision of the case.* Judges Alvey and Bryan thought that the majority were wrong, but *they did not think that the point was immaterial* or unnecessary to be decided, or they surely would have said so and not each have written a separate dissenting opinion upholding his view that the majority were wrong in their construction.

How can counsel seriously contend that a point about which the Court was divided and upon which two eminent Judges took the trouble to write dissenting opinions, was a mere passing remark, something said by the way, obiter dictum?

That contention is not complimentary to the seven learned Judges who heard and decided the case of Daly vs. Morgan. With a Court composed of Chief Judge Alvey and Judges Stone, Miller, Robinson, Irving, Bryan and McSherry, we should certainly expect *one* of them to *discover* that a point about which they could not agree, was immaterial to the decision of the case, before the position of the majority, *on that point* was emphasized by italics, and the position of the minority by two dissenting opinions, *one* of which *dealt with that point only.*

OPINION OF WM. L. MARBURY, ESQ.

In his opinion given in March, 1916, Mr. William L. Marbury, on this point, said:

"Whatever may be the view taken by courts of other jurisdictions, there is no doubt but that such a decision is binding in this State."

In the case of Alexander vs. Worthington, 5 Md. 471, at pages 488-89, our Court of Appeals, criticising and refusing to follow a decision of the Supreme Court of the United States, which suggested a different view, says:

> "In Maryland it is usual to limit the judgment to the question of right involved in the issue. *But where a question of general interest* is supposed to be involved and is fully discussed and submitted by counsel, the court frequently decides the question with a view to *settle the law*, and it has never been supposed that a decision made under such circumstances could be deprived of its authority by showing that it was not called for by the record. The cases of *Richardson vs. Jones*, 3 Gill & Johns, 163; *Carter vs. Dennison*, 7 Gill 157, amongst others, will establish this practice. All that is necessary in Maryland to render the decision of the Court of Appeals authoritative on any point decided is to show there was an application of the judicial mind to the precise question adjudged and this, we apprehend, is the rule elsewhere."

That the question of whether or not the Legislature had the constitutional power to extend the limits of Baltimore City without the consent of the majority of the voters in the district to be annexed was a question of "general interest" will not be denied.

That there was "an application of the judicial mind" to that precise question will, I think, sufficiently appear

from the quotation from the opinion in Daly vs. Morgan, above given.

The case of Alexander vs. Worthington is followed on this point by the case of Michael vs. Morey, 26 Md. 239."

OPINION OF JOSEPH C. FRANCE, ESQ.

13th March, 1916.

S. S. Field, Esq.,
City Solicitor.

Dear Sir: Answering the question put for my opinion: I have re-read Daly vs. Morgan, 69 Md., and particularly the following language at page 466 (official edition): "The Legislature has, therefore, in our opinion, the same power now which it has always exercised, to extend the limits of Baltimore City by including therein parts of Baltimore County, and this, too, *with or without the consent* of a majority of the voters residing within the districts annexed." The italics in this quotation are the Court's, and any careful reading of the case will show that the conclusion thus emphasized was a necessary consequence of the Court's decision and not merely an *obiter dictum*. My reasons are these:

I.

It is perfectly true that the Annexation Act of 1888, involved in Daly vs. Morgan, contained a referendum to the voters, and this has doubtless produced the impression that the words italized were merely the passing re-

marks of the judge who wrote the opinion. But the fact is that, in calling the assent of the voters immaterial, the Court was stating an inevitable corollary of the point flatly decided.

II.

What was decided in Daly vs. Morgan? The Constitution (Article 13, Section 1, subtitle "New Counties") says: "Nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the district which, under said proposed change, would form a part of a county different from that to which it belonged prior to said change." The appellant, Daly, a resident of Baltimore County, was attacking the Annexation Act of 1888, and he contended that, by force of this constitutional provision, county lines can be changed *only* for the purpose of annexing parts of one county to another county; and *not* for the purpose of annexing parts of a county to a city. The question of referendum was involved only because it was imbedded in the larger and inclusive issue which was both raised and decided, namely: That the whole constitutional provision (including, therefore, the limitation on the otherwise plenary power of the Legislature to act *without* referendum) deals "exclusively with the organization of new counties, the location of county seats, and the modes by which parts of one county may be annexed to another county"; and has no reference to the erection or incorporation of county residents and territory into a city.

III.

Two of the seven judges (Alvey, C. J., and Bryan, J.) dissented. They agreed with the majority in upholding the Act of 1888; but they disagreed as to the principle involved. The appellant was contending that the purpose of the Constitution was to protect existing county lines and to forbid their disturbance, referendum or no referendum, except for the purpose of organizing a new county or of reappointing territory between two counties. This contention the two minority judges met by saying that, in spite of its title and context, the provision of the Constitution was intended to include cities. The majority of the judges agreed with the appellant that the provision could not, in any fair interpretation, include cities; but, they decided, that the effect of this was not to prevent cities from expanding, as the appellant contended, but to take them *entirely out of the constitutional provision and its referendum limitation,* thereby leaving the case of city expansion to the plenary power of the Legislature. In the view of the majority the referendum provision in the Act of 1888 was immaterial and they so said. In the view of the minority the referendum provision was essential to the validity of the Act. But neither of the dissenting judges suggested, even faintly, that there was anything of *obiter dictum* in the opinion of the Court; and, certainly, the fact that the result could have been rested on a ground different from that taken by the majority of the Court, does not make the decision any the less of a precedent or place it in the category of *dicta.*

IV.

To illustrate my conclusion: Suppose a community which is bounded or even divided by the line between two counties; or by the line between Baltimore or Anne Arundel County and the City of Baltimore. I am bound to say that, under the Maryland law, as I understand it, such a community can, by legislative Act, be erected into a city or incorporated with an existing city without the consent of the inhabitants concerned. In the absence of a constitutional limitation, the power of the Legislature in this respect is plenary; and, certainly, Daly vs. Morgan decides that our constitutional limitation, providing for a referendum to the voters, has no application except to "the annexation of parts of one county to another" (69 Md. 464).

Yours very truly,

J. C. FRANCE.

These opinions, with similar opinions given at the same time by former Attorney-General George R. Gaither, George Whitelock, Alexander R. Hagner and Richard Dallam, Esqs., were published in full in the pamphlet gotten out in 1917 by the Non-Partisan Greater Baltimore Extension League, pp. 44-60. The same view was taken by the eleven lawyers who prepared the Bill, as will appear from their report published in the same pamphlet, pp. 22-27. Attorney-General Albert C. Ritchie, in an interview in the press of January 8, 1917, expressed the same view.

OPINION OF ATTORNEY-GENERAL RITCHIE.

Attorney-General Ritchie said:

"I do not think, however, that the question should be submitted to the vote of the counties or the districts affected. The extension is needed because the interests of a city of 600,000 inhabitants—and, therefore, the interests of the whole State—require it. Even private property can be taken, for just compensation, without the owner's consent when the public interests require it. All the more should the State, when the public interests require the extension of the limits of its greatest city, be free to grant that extension on the terms which the State deems fair, without a referendum to the comparatively small number of citizens who live in the localities affected. It is not right that a state-wide need, as I consider the extension of Baltimore's limits to be, should run the chance of defeat because of possible opposition from the voters in the districts to be annexed or in the counties of which these districts now form part.

Legislature Has Power.

"I have no doubt of the power of the Legislature to extend the limits of Baltimore City without referendum. I examined this question when the last Legislature was in session, and the conclusion I then reached, and which I still hold, is based upon a thorough examination of the records, arguments and opinions in the case of Daly vs. Morgan. It is the same opinion that was then publicly expressed by a number of distinguished members of the bar who examined the question, and it is that in which the Court of Appeals, in Daly vs. Morgan, not as *obiter dictum*, but definitely and deliberately, decided that a vote of the people is not necessary for the extension of Baltimore's limits. I regard this as settled by the Court of Appeals."

A RECENT PARALLEL.

At the very time when the public discussion was taking place, pro and con, as to whether or not this portion of the

opinion in Daly vs. Morgan was *obiter dictum,* this present Court, by the present Chief Judge, delivered another *obiter dictum* (if the contentions of counsel opposing this Act are correct) under very similar circumstances.

In Johnson vs. Luers, 129 Md. 523, the Court had under consideration the Acts of 1916, Chapter 426, incorporating the town of Bowie. The Act *contained a referendum* to the voters of the proposed town. According to the contention of counsel on the other side, it was not necessary for the Court to say anything about the power of the Legislature to incorporate the town without a referendum, because the Act under question contained a referendum, and therefore anything said on that subject would be *obiter dictum,* and yet in that case this Court, through Chief Judge Boyd (129 Md. 530), said:

> "It is well settled that Acts incorporating municipal corporations may be made binding upon those within the limits, without consent, or only upon consent, as the Legislature may determine."

The learned Chief Judge not only made this statement in the opinion, but proceeded immediately to quote authorities for the statement as follows (129 Md. 530):

> " 'These are laws and, as such, are imperative and binding, according to their terms, without any consent, unless the Act is expressly made conditional. * * * Over such corporations the Legislature, except as restrained by the Constitution, has entire control.' 1 Dillon on Mun. Cor. (5th Ed.), Section 69. Again, in Section 92 of that volume, it is said: 'Subject to Constitutional limitations presently to be noticed, the power of the Legislature over such corporations is supreme and transcendent; it may, where there is no constitutional inhibition, erect, change, divide and even abolish them at pleasure, as it deems the public good to require,' and in Section 98 it is said: 'It must now be con-

> ceded that the great weight of authority denies in toto the existence, in the absence of special constitutional provisions, of any inherent right of local self-government which is beyond legislative control.' "

And again referring to the subject, on page 532, His Honor said:

> "The Legislature has the right, as we have seen, to incorporate a town *without the consent* of those within the limits, and when it determined to submit the question, it had the right to prescribe the terms."

And in this latter quotation, as in Daly vs. Morgan, the words "without the consent" were italicized by the Court. Was this obiter dictum?

Do counsel mean to contend that an opinion is obiter dictum because the case might have been decided differently, or might have been decided on another point?

In Daly vs. Morgan, Judge Alvey thought that the provision as to taxation in the Act of 1888 was unconstitutional and void. If the majority of the Court had agreed with him and had further been of opinion that the taxing provision was an essential part of the statute, they *might have decided that the whole Act was void on the ground that the provision as to taxation violated the rule as to uniformity prescribed by Article* 15 *of the Declaration of Rights. If* the Court had so decided the case of Daly vs. Morgan, *then they need not have decided* the point as to the meaning of the word "county" in Section 1 of Article 13 of the Constitution.

When it is said that an opinion is binding on any point which was necessary to the case, the statement means

necessary to the decision made. The fact that the Court might have decided the case differently, or might have put the decision on some other ground, does not prevent the doctrine of "*stare decisis*" from applying to an opinion *on every point which was necessary to the decision on the ground upon which it was placed by the Court.*

In Alexander vs. Worthington, 5 Md. 489, the Court, through Le Grand, Chief Justice, say:

> "But we are not aware of the authority which will sustain the position assumed by the Supreme Court, that the unanimous opinion of a State court of the highest appellate jurisdiction, directly on a point which is supposed by the Court to be presented by the record, and which is elaborately discussed by counsel, and is investigated with care and solemnly delivered by the Court, can be disregarded as obiter dictum, merely because it is since discovered that some other point existed on which the judgment rendered might have been rested. If any such authority exists it has not been referred to."

In Michael vs. Morey, 26 Md., the Court had under consideration the construction of a contract which had been construed in a former case. Holding itself bound by the former decision, the Court said (26 Md. 261):

> "We consider this construction of the instrument in question conclusive on this point, not because it was made in a suit between the same persons but different parties, but because the point was 'investigated with care and considered in its fullest extent,' which is all that is necessary in this State to render a decision binding as a precedent. Alexander vs. Worthington, 5 Md. 488, 489."

In Baltimore vs. Scharf, 54 Md. 499, Scharf made the contention that an assessment on his *abutting* property on account of the paving of Baltimore street was void,

because the ordinance authorizing the assessment did not authorize any assessment on the property of the railways company, namely: its tracks in the middle of the street. Passing on this contention, the Court said (54 Md. 525):

> "The objection that the obligation to repair is on the railway by the express terms of its charter, interposes no sufficient reasons to avoid the ordinance. Their obligation is to keep in repair, not to repave with a new and different material and perhaps more costly."

Thirty-three years afterward the question of the extent of the railways company's obligation, whether to repair or to repave, came *directly before this Court in a suit between the City and the Company,* and this Court held itself bound by the above quoted statement from 54 Md., although admitting the weight of the reason to the contrary. The Court, through his Honor, Judge Constable, after quoting from 54 Md., said (121 Md. 558):

> "The city contends that this was obiter, but with this we cannot agree. It is true that the decision of this point was rendered unnecessary, because the case was decided upon another point—the lack of notice. Yet the Court before passing upon the question said that although the decision was rendered unnecessary, 'but as it may prevent further litigation on that score we may properly dispose of the questions,' and proceeded to do so. The decree in this case upon reargument was afterwards rescinded, Baltimore vs. Scharf, 56 Md. 50, but the opinion on this point was reaffirmed. This then clearly takes it out of the domain of obiter and will be regarded by us as a question to which the judicial mind was directed. And although we are impressed with the reasoning we nevertheless see no reason to depart from the ruling of our predecessors."

SHOULD DALY VS. MORGAN BE OVERRULED?

In order to induce your Honors to overrule Daly vs. Morgan, counsel attacking the Act of 1918 must convince this Court,

(1) That the opinion on this point was obiter dictum;

(2) That it was erroneous.

The rule as to the effect of a prior decision is thus stated in the leading case of Hammond vs. Inloes, 4 Md. 165, quoted and approved in McAleer vs. Horsey, 35 Md. 464:

> "We are not prepared to say that cases will not arise in which we shall feel ourselves constrained to withhold our assent to adjudged cases. The reported decisions show that this has been done, and it may occur again. But, in the language of Mr. Justice Earle, whose opinion has been invoked by the appellant's counsel on this question, 'the solemn adjudication of an appellate court of last resort, ought, on general principles of judicial propriety, to be approached with caution, and perhaps they should never be disturbed, except to settle some great rule of property the public interest requires to be reviewed, etc.' "

Referring to Hammond vs. Inloes, this Court said in Dugan vs. Hollins, 13 Md. 162:

> "There, it is true, the Court concede, that the cases have occurred, and may again occur, in which they would feel themselves bound to withhold their assent to adjudged cases. But it is evident, from the whole scope of the opinion, that the assent should only be withheld where the former decisions were clearly erroneous."

In Kolb vs. Swann, 68 Md. 521, this Court say:

> "We have conceded, as we before said, the power of the Court to reverse its own decisions in analagous cases. The varying conditions of the community render such a power necessary for the furtherance of justice, and to meet the complex problems of business transactions. But, as well said by Judge Earle, in Hammond vs. Ridgely, 5 H. & J. 278, such power should be exercised with caution, and only where some important rule of property or practice or public policy clearly points out the necessity for the change, and the reasons should be made apparent. The burden is upon him who seeks the change."

Two recent examples of this Court's reluctance to overrule prior decision, quoted in this brief under other heads, are W. M. T. R. R. Co. vs. Baltimore, 106 Md. 573; Baltimore vs. United Rys. Co., 121 Md. 558.

If the decision has been acted upon by individuals so that a reversal of it would disturb existing rights which had been acquired upon the faith of the decision, this is an additional reason why the decision should be adhered to.

26 Am. & Eng. Ency. of Law, 2 Ed., p. 168.

So, if the Legislature has acted upon the decision.

In 26 Am. & Eng. Ency. of Law, p. 167, it is said in the text:

> "The courts are extremely reluctant to overturn a decision construing a statute when the construction has in any manner received the sanction of the Legislature."

In the present case the Court is asked to overrule a decision of this Court upon which it may be truly said that both the Legislature and the people of the State have

acted, and upon a subject of the greatest public interest, which has come before the Legislature since the decision in Daly vs. Morgan. The people had before them in the campaign the following sentence from the opinion of this Court in Daly vs. Morgan:

> "The Legislature has, therefore, in our opinion, the same power now which it has always exercised, to extend the limits of Baltimore City by including therein parts of Baltimore County, and this, too, *with or without the consent* of a majority of the voters residing within the districts annexed."

The great mass of the voters who were not lawyers may not understand the technical distinction between decision and obiter dictum, but if they had never heard of obiter dictum the simplest of them could not have had any difficulty in understanding the sentence from the opinion of this Court.

The people and the Legislature were also furnished with the opinions of a number of lawyers as to whether or not this opinion was a decision or obiter dictum, and in numbers at least, the very great preponderance of opinion was to the effect that the above quoted opinion in Daly vs Morgan was a decision and not obiter dictum.

With the great preponderance, therefore, of lawyers averring that the decision is binding and with the clear and emphatic language of the Court itself before them, *the people instructed the Legislature to do, and the Legislature did, what this Court said it had the power to do.* This Court, which is the *ultimate authority* as to the meaning of a provision of the Constitution, and *as to the power of the Legislature under the Constitution,* had

solemnly declared that the Legislature has the power to do the very thing which the Legislature has done by the Act of 1918, Chapter 82. This Court told the Legislature that, under the Constitution, it had the power to extend the limits of Baltimore City without a referendum to the voters in the territory to be annexed. The Legislature has done that. It has acted. It has exercised its power under the Constitution precisely as this Court had declared its power to exist.

It would seem, therefore, *that there could not be a case which would more strongly call for the application of the doctrine 'stare decisis.'*

APART FROM THE PRINCIPLE OF STARE DECISIS THE DECISION IN DALY VS. MORGAN SHOULD BE FOLLOWED BECAUSE IT IS RIGHT.

The main contention of the opponents of the act is that it is invalid because it does not contain a referendum to the voters residing within the territory to be annexed to Baltimore City. This contention is based solely on their construction of Section 1 of Article 13 of the Maryland Constitution. The whole section reads as follows:

> "The General Assembly may provide, by law, for organizing new counties, locating and removing county seats, and changing county lines; but no new county shall be organized without the consent of the majority of the legal voters residing within the limits proposed to be formed into said new county; and whenever a new county shall be proposed to be formed out of portions of two or more counties, the consent of a majority of the legal voters of such part of

each of said counties respectively, shall be required; nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the district, which, under said proposed change, would form a part of a county different from that to which it belonged prior to said change; and no new county shall contain less than four hundred square miles, nor less than ten thousand white inhabitants; nor shall any change be made in the limits of any county, whereby the population of said county would be reduced to less than ten thousand white inhabitants, or its territory reduced to less than four hundred square miles."

As will be seen, this section deals *primarily* with the subject of *new counties.* Article XIII, in which this section appears is headed *"New Counties."* It provides for forming Wicomico out of parts of Worcester and Somerset. Section 1 provides for:

1. Forming a new county out of an existing county.

2. Forming a new county by taking portions of two or more existing counties.

Incidentally, it provides for

a. Locating and changing county seats.

b. Enlarging one county at the expense of another without forming a new county, and

c. It prescribes a minimum in population and territory, below which an existing county shall not be reduced, or a new county created.

There is nothing in this section or in the entire Article XIII to indicate that the framers had in mind Baltimore

City. No new county of the size required could be formed within the limits of Baltimore City, nor did anyone ever contemplate that a new county would be formed by taking part of Baltimore City and part of an existing county, and the provisions prescribing a minimum size of 400 square miles, and as to county seats, clearly had no relation to Baltimore City. The word "county" appears thirteen times in this Section 1, and counsel on the other side will admit that in 12 of the 13 times, "county" does not mean or include Baltimore City.

The construction, contended for by them, is that the word "County" should be construed to include Baltimore City in the place where it is underscored in the following phrase: "Nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the district, which, under said proposed change, would form a part of a *county* different from that to which it belonged prior to said change."

Support of this contention is sought in the 12th Rule of Interpretation in the Code of 1860 (13th in the present Code): "The word County shall be construed to include the City of Baltimore, unless such construction would be unreasonable."

It is to be noted that this rule of interpretation is *not prescribed for the Constitution,* but for the Acts of Assembly codified in the Code and thereafter passed. It obviously would not be competent for the Legislature to prescribe a rule of interpretation for the Constitution, which is a fundamental document adopted by all the people pursuant to a convention duly called for that pur-

pose, and of itself necessarily superior to any Act of Assembly. Moreover, there is a very good reason why such a rule of interpretation is desirable for a Code and special statutes which does not apply to the construction of a Constitution. A Constitution is a single document framed at one time by a constitutional convention selected for that particular purpose, and with its attention singled upon the one document. It is common knowledge and experience that a Constitution thus framed is given more careful consideration, both in substance and in phraseology, than is possible with the ordinary Act of Assembly, of which hundreds are passed at every session of the Legislature. Practically every clause, phrase, and, indeed, every word of a constitution is carefully considered by the convention before it is adopted. Thus we know that the Constitution of the United States was very minutely considered, and after being agreed upon in substance, its phraseology was referred to a committee on style, who again minutely went over all its provisions. It is common knowledge that similar procedure is customary in State constitutions, and was followed in the framing of our constitution of 1867.

We, therefore, naturally expect when reading the Constitution to find words used in their *precise* meaning and not in an *ambiguous* sense. On the other hand, Acts of Assembly are, comparatively speaking, often hurriedly drawn without comprehensive thought as to the whole body of the law. With the exception of purely local legislation, the acts of assembly are state-wide in operation. The municipal sub-divisions of Maryland consist of twenty-three counties and the City of Baltimore. In

drawing a bill for the Legislature it is not unnatural to be thinking especially of the application of the law to one's own county, and possibly other counties, without giving especial thought to the City of Baltimore, although the act is state-wide in its operation. It, therefore, is very natural to find in many Acts of Assembly the word "county" used in such a sense that it must necessarily, by virtue of its very subject matter—being state-wide in its operation—include Baltimore City.

Turning now to the Constitution itself, we find a very different situation. It is a document prepared with more singleness of purpose, more extended consideration, and more concentration of attention by a large body of men, representing all sections of the State, including Baltimore City. Its provisions are carefully scrutinized by all interests. Thus, it is not surprising to find that throughout the Constitution wherever reference is made to the counties for any subject matter which does not pertain exclusively to some particular county, the expression invariably used is "the counties of this State *and the City of Baltimore.*" Thus, we find this expression in substantially this form appearing in the following sections of the Constitution: Article 1, Sections 1 and 4; Article 3, Sections 2, 3, 4, 5, 6, 9, 45, 51; Article 4, Sections 1, 3, 9, 11, 14, 37, 40, 41, 42, 43, 44, 45; Article 5, Sections 2, 7, 10, 11, 12; Article 6, Section 2; Article 14, Section 2; Article 15, Sections 8, 10.

We also find that of fifteen articles of the Constitution, one whole article—XI—is devoted to the City of Baltimore under the caption "City of Baltimore"; and one whole article—XIII—is devoted to the subject of coun-

ties as distinct from the City of Baltimore. Reading these two articles, 11 and 13, it will be found that *in Article11 at no place does the word "county" appear,* and *in Article* 13 *in no place does the word "city" appear.*

It would seem to be self-evident from these considerations that the framers of the Constitution in proposing it, and the people in adopting it, thoroughly understood that Article 11 deals exclusively with Baltimore City and Article 13 with the Counties as distinct from Baltimore City, and that where other provisions of the Constitution were designed to include the city as well as the counties great care was used to expressly mention both counties and city.

Can it be possible to stretch the meaning of the word "county" as used in Article 13, Section 1, to also include Baltimore City? It would indeed be a strange thing to find that in this carefully framed document in which more than thirty times careful verbal distinction has been made between the city and the counties, there should be found *one* instance and only *one* in which the word "county" has been used in a sense which includes Baltimore City, and that, too, in an article which deals exclusively with matters pertaining to the counties as distinct from the city, and in a matter claimed to be so *important* to the *counties* as the subject of the Act which is challenged in this case.

Furthermore, it is to be noted that in this very Section 1 of Article 13 the word "county" appears *thirteen* times, and we do not understand that it is even suggested that the word is used in the sense of including Baltimore City

at any time except in the *one instance* in the particular clause above quoted. The section itself is headed "new counties," and the whole subject-matter excludes the idea of the word being used in a sense which would include Baltimore City. The reasoning of the majority opinion in *Daly vs. Morgan* on this point seems to us conclusive (69 Md. 464):

> "The object and sole object of this provision of Section 1 was to provide for the annexation of parts of one county to another. The entire section in fact and the article in which it is to be found deals exclusively with the organization of 'new counties,' 'location of county seats,' and the mode by which parts of one county may be annexed to another county, and the limitation imposed on the legislative power is in respect of these matters and these only."

There are other reasons which strengthen the conclusion that the word county in Section 1, does not mean Baltimore City. Some of these reasons are expressed by the majority opinion of the Court in *Daly vs. Morgan,* where the Court says (69 Md. 465):

> "Counties are political divisions of the State, organized with a view to the general policy of the State, and the functions and powers exercised by them have reference mainly to such policy. Besides, their representation in the General Assembly is fixed by the Constitution, and we can understand why it was deemed proper to make some provision in regard to the organization of counties, and the annexation of parts of one county to another. Towns and cities, however, are ordinarily chartered at the instance, and mainly with reference to the interest, convenience and advantage, of persons residing within the particular locality incorporated. They are chartered by the Legislature, and their boundaries are fixed by it, and the power to extend them, whenever in its judgment the public interests require it, has been exercised by the Legislature from the earliest days of the colony."

If the question were open, if it had not been concluded by the decision in *Daly vs. Morgan,* the following reasons are apparent in favor of construing the word "county," just as it was construed by the majority of the Court:

(1) *The Ordinary and Common Acceptation" of the Word.*

No one would ever think that the word "county" means Frederick City, or Hagerstown, or Cumberland. It is only by the application of an *arbitrary rule,* such as the Legislature has adopted for the construction of *statutes,* or by *inference* from *argument,* that anyone would ever think that the word "county" means Baltimore City.

One can argue, as Judge Alvey did (69 Md. 474):

> "The City of Baltimore is one of the political territorial divisions of the State, and I can perceive no substantial objection to construing the appellative city as synonymous with that of county; and I think such construction, while it is not according to the literal reading of the Constitution, Art. 13, Sec. 1, is according to the spirit, and the general object and purpose of the constitutional provision."

But it *takes an argument* to reach this conclusion, and Judge Alvey admits that the conclusion is not in accordance with the literal or primary meaning of the word "county."

In Groff vs. Frederick City, 44 Md. 78, this Court said:

> "But it was further contended that the powers conferred on the municipal corporation of Frederick are inconsistent with the *spirit* of the Constitution We have not been referred to, nor are we aware of any provision of the Constitution the spirit of which is opposed to, or inconsistent with,

> the powers confererd on the appellee by the Act of 1870. To justify courts in declaring an Act of Assembly void by reason of its unconstitutionality, they must be satisfied that it is in direct and clear conflict with the written Constitution. They have no power to declare it void because it conflicts with their opinions of expediency or justice. The remedy for legislation of such a character is with the Legislature alone."

In Bandel vs. Isaac, 13 Md. 223, this Court, through Le Grande, Chief Judge, says:

> " * * * that the words in such an instrument ought to be taken in their ordinary and common acceptation, because they are presumed to have been so understood by the framers, and by the people who adopted it."

And, in the later case of Jackson vs. State, 87 Md. 195, the Court say:

> " * * * as was said in Cantwell vs. Owens, 14 Md. 215, 'where the Constitution speaks in plain language in reference to a particular matter, Courts have no right to place a different meaning on the words employed because the literal interpretation may happen to be inconsistent with other parts of the instrument in relation to other subjects.' "

(2) *The 12th Rule of Interpertation in the Code of 1860 is a creature of the Legislature.* It is an arbitrary rule adopted by the Legislature for the construction of its own statutes. The Constitution is above the Legislature. The Legislature has no power to construe the Constitution. That is for the Courts. Having no power to construe the Constitution the Legislature cannot prescribe a rule for its construction.

As stated by Colonel McIntosh, in his brief in Daly vs. Morgan:

> "The General Code has provided rules of interpretation as applicable to the body of laws impressed therein; and one of these rules provides that the word counties, *in the Code* shall be construed to include the City of Baltimore, unless such construction would be unreasonable, but that rule of interpretation established for the statute law has no application to this case in construing the language of the Constitution."

In Pickering vs. State, 26 Md. 504, this Court, through Bartol, J., said:

> "Besides the rules for construing a statute are not the same as those by which the courts are bound when they come to interpret the meaning of a constitutional provision. The technical rules applicable to the former have no application to the latter. 'The Constitution, unlike the Acts of our Legislature, owes its whole force and authority to its ratification by the people, and they judged of it by the meaning apparent upon its face, according to the general use of the words employed, where they do not appear to have been used in a legal or technical sense.'"

See also to same effect Cooley Const. Lim., 7th Ed., p. 101.

(3) The framers of the Constitution of 1867 *might have adopted or acted upon* the 12th Rule of Construction in the Code of 1860, *but they did not.* The word "county" or counties is used more than an hundred times in the Constitution of 1867, and never does it mean or include Baltimore City. In every case where the word is used in connection with a subject which applies also to Baltimore City the words "and the City of Baltimore" or "and city" are added, with *one* exception.

In the latter part of Section 10 of Article 15 there is an omission to add "or city" in the clause "but in case

any officer shall qualify out of the county in which he resides." In this isolated instance, however, there is no room for the application of Rule 12 of the Code, because the immediate context in the same sentence supplies the omission of the words "or city",—the whole sentence being: "But in case an officer shall qualify out of the county in which he resides, an official copy of his oath shall be filed and recorded in the Clerk's Office of the Circuit Court of the county in which he may reside, *or in the Clerk's Office of the Superior Court of the City of Baltimore,* if he shall reside therein."

(4) *The Constitution deals with Baltimore City and counties in separate sections of the Constitution;* Baltimore City in Article 11 and counties in Article 13.

(5) *The constitutional provision of Article 11 relating to Baltimore City are expressly made subject to changes by the Legislature at its pleasure, with the single exception of the provision for creating debt.* Section 9 provides: "The General Assembly may make such changes in this article, except in Section 7 thereof, as it may deem best." This is a very unusual and striking illustration of the intention of the Constitution to leave to the Legislature its plenary power over Baltimore City.

(6) *The Natural and Physical Differences Between the City and the Counties.*

Counties do not grow over their territorial boundary lines. Cities do. When the boundary lines of Wicomico County were fixed by the Constitution of 1867 there was no probability that anything would be done by either the

new or the old counties, or the people thereof, to physically change or overgrow those boundaries. But everyone expects a growing city from time to time to physically outgrow its legal boundaries.

The framers of the Constitution of 1867 knew that the city would overgrow its then existing boundaries; that streets would be built out and solid rows of houses built, and that all the necessities for health preservation, for the preservation of the public peace and for the orderly and systematic laying out of the streets, would arise in the territory beyond the then existing boundaries of Baltimore City; and it is but reasonable to suppose that they intended to leave the Legislature free to extend those boundaries whenever in its judgment the public welfare, the growth and development of the city, the public health, good order and prosperity, might make it expedient to do so.

(7) *This limitation on the power of the Legislature was new.* Prior to 1864 the Legislature had plenary power to increase or diminish the size of counties, just as it had always had to increase or diminish the size of cities. As it is a new limitation, it ought not to be extended by construction, beyond the ordinary import of its language, so as to limit a power which, as the Court correctly said "has been exercised by the Legislature from the earliest days of the colony."

(8) *Probably Intended as a Check on the Power of the Legislature to Affect the Control of a Succeeding Legislature.*

The *same limitation,* namely, requiring a referendum,

is placed upon the formation of a new county either out of one or more counties as is placed upon transferring a part of one county to another; and there is a *further absolute limitation* upon reducing any county to, or forming any new county with, less than 400 square miles.

This effectually prevents a legislature from splitting up a county into three or four new counties, and thus getting three or four senators instead of one, and an increase in the House of Delegates.

Similarly, without creating a new county, increased representation in the Legislature might be effected by changing the line between two counties so as to throw part of one in the other.

The framers of the Constitution knew that it might be perfectly possible, from time to time, to change the political complexion of the Legislature by skillful gerrymandering of county lines. For example, Baltimore County is very largely Democratic and Carroll is usually very close. If a fairly good slice of Democratic population was taken from Baltimore County and thrown into Carroll County, it would make both counties safely Democratic, would give Carroll additional representation in the House of Delegates, and give the Democrats twelve delegates in the next Legislature in place of six.

In the same way the debatable county of Prince George might be made safely Republican by annexing a slice of Charles. The framers of the Constitution evidently wanted to put some check on the power of the Legislature to do this kind of gerrymandering.

REASON DOES NOT APPLY TO EXTENSION OF LIMITS OF BALTIMORE CITY.

No such result could occur from increasing the limits of Baltimore City, for the representation of Baltimore City in the Legislature is not regulated by population—it is fixed by the Constitution at a certain number—four in the Senate and twenty-four in the House—and would not be increased by any increase of the population of the City, nor is it probable that the annexation of the contiguous territory would affect the political complexion of the City.

(9) *Forming a new county or putting part of one county into another county affects only the people residing in the district so created or changed, except in so far as it might affect representation in the Legislature.* It does not affect the public peace or health or prosperity; whereas, promoting the growth of Baltimore City by extending its boundaries affects the public prosperity, largely increases the State's revenues and promotes public order and public health. Putting a part of one county into another is a local affair, which may well be referred to the people in the locality; the growth of a city is a public affair, which should be passed upon by the people of the entire State, or their representatives in the Legislature. This distinction, which was always obvious, is now a part of our Constitution (Article XVI).

(2.)

MAJORITY WERE RIGHT AS TO THE SOURCE OF THIS POWER IN THE LEGISLATURE.

One is surprised and puzzled to find so great a lawyer and Judge as Chief Judge Alvey saying in his dissenting opinion, 69 Md. 490, "and clearly the Legislature has no power over the subject, except that derived from the Constitution."

For whether he meant this clause to apply to the power to extend the city limits, which is the subject in the immediate context, or to the legislative power of taxation, to which most of his dissenting opinion was devoted, in either case *his statement as to the derivation of the power* was clearly erroneous.

In his opinion given in March, 1916, former Attorney-General George R. Gaither said:

> "There can be no question of the right of the legislative branch of our State government to modify or change our political sub-divisions in any way which is not prohibited by the Constitution of the State. I am, therefore, clearly of the opinion that the Legislature can pass such an Annexation Act with or without submitting the question to a vote of the people of the district to be affected."

The National Congress is a legislative body whose powers are defined and limited by the Constitution of the United States. It has only the powers granted to it (Constitution of the U. S., Art. 10). But the Legislatures of the States have *all the powers of sovereignty which the people themselves have, except so far as lim-*

ited by some provision of the Constitution of the State or the Constitution of the United States.

> Cooley, Const. Lim., 7th Ed., pp. 126-27; 236-37.
> Balto. vs. State, 15 Md. 376 (see 473-4).
> Painter vs. Matfeldt, 119 Md. 472.

In Cooley on Const. Lim., 7th Ed., p. 127, the author says:

> "'The people in framing the Constitution,' says Denio, C. J., 'committed to the Legislature the whole lawmaking power of the State which they did not expressly or impliedly withhold. Plenary power in the Legislature for all purposes of civil government is the rule. A prohibition to exercise a particular power is an exception. In inquiring whether a given statute is constitutional, it is for those who question its validity to show that it is forbidden.'"

In Painter vs. Matfeldt, 119 Md. 472, this Court quotes from the same case (People vs. Draper, 15 N. Y. 532):

> "Plenary power in the Legislature for all purposes of civil government is the rule. A prohibition to exercise a particular power is an exception."

The same quotation is also found in Baltimore vs. State, 15 Md. 479. In the latter case, in stating the rule in his own language, Chief Judge Le Grande said (15 Md. 472):

> "The difference between our State government and a pure democracy, consists in this: In the latter, the people have the power to do as they may please, while in the former, their delegates have the same scope of authority, save in so far as there be express or necessarily implied limitations on it. Without these limitations their power is absolute. This definition is nowhere denied by persons familiar with the nature of our political institutions, and has been affirmed by the Courts of every State in the Union, whenever they have been called upon to pronounce in regard to it."

Stating the rule in his own language, Cooley says (Const. Lim., 7th Ed., p. 126):

> "In creating a legislative department and conferring upon it the legislative power, the people must be understood to have conferred the full and complete power as it rests in, and may be exercised by, the sovereign power of any country, subject only to such restrictions as they may have seen fit to impose, and to the limitations which are contained in the Constitution of the United States."

That this plenary power in the Legislature exists with regard to the creation, enlargement and government of cities cannot be questioned.

The fact is that both in Daly vs. Morgan and Johnson vs. Luers this Court was laying down the well-established legal principle that over the boundaries as well as the internal affairs of cities, the Legislature has plenary power except as restrained by the Constitution. This principle has been repeatedly announced by the highest authorities.

In *Hunter vs. Pittsburgh,* the Supreme Court of the United States said (207 U. S. 178-9):

> "The State, therefore, at its pleasure, may modify or withdraw all such powers, may take without compensation such property, hold it itself, or vest it in other agencies, *expand or contract the territorial area, unite the whole or a part of it with another municipality,* repeal the charter and destroy the corporation. *All this may be done conditionally or unconditionally, with or without the consent of the citizens, or even against their protest."* (Italics ours.)

In *Groff vs. Frederick City,* 44 Md. 78, the Court of Appeals said:

"That the Legislature had the power to pass the Act is equally clear. The Legislature has the power to create municipal corporations, to amend their charters, enlarge or diminish their powers, extend or limit their boundaries, consolidate two or more into one, overrule their legislative action whenever it is deemed unwise, impolitic or unjust, and even abolish them altogether, in the legislative discretion."

In the opinion given by ALEX. R. HAGNER, ESQ., in 1916, the following authorities are quoted:

"The Constitution of Maryland, Article 11, pertains exclusively to the government of the City of Baltimore, and there is no provision prohibiting the extension of its limits without submitting the same to the voters of the territory to be taken in.

By Article 13 of the Constitution no new counties can be formed, or the boundaries thereof changed without submitting the question by way of referendum. This article pertains exclusively to counties and bears in no way upon the extension of the limits of the City of Baltimore.

The limits of cities may be extended by the legislature without the consent of a majority of the inhabitants of the city or the part to be annexed.

Cheaney vs. Hooser, 48 Ky. 330.

The Legislature may enlarge the territorial limits of a city without the consent of the inhabitants of the territory proposed to be added.

City of St. Louis vs. Allen, 13 Mo. 400.

Giboney vs. City of Cape Girardeau, 58 Mo. 141.

The General Assembly has power to extend the limits of an incorporated town without the consent and against the wishes of the citizens who live on or own land comprising the part to be annexed.

Manly vs. City of Raleigh, 57 N. C. 370.

The power of the legislature to fix or enlarge the corporate boundaries of municipalities has not been disputed.

4th Dillon (5th Ed.), Sec. 1395.

> In the case of Kelly vs. Pittsburgh, 104 U. S., at pp. 80-81, the Court says (Justice Miller): 'What portion of a state shall be within the limits of a city and be governed by its authority and its laws, has always been considered to be proper subject of legislation, how thickly or how sparsely settled is one of the matters within the legislative discretion. Whether territory shall be governed for local purposes by a county, a city or township organization is one of the most usual and ordinary subjects of state legislation.' "

In Johnson vs. Luers, this Court, through Boyd, Ch. J., quoting Dillon, say:

> "Again, in Section 92 of that volume, it is said: 'Subject to constitutional limitations presently to be noticed, the power of the Legislature over such corporations is supreme and transcendent; it may, where there is no constitutional inhibition, erect, change, divide and even abolish them at pleasure, as it deems the public good to require."

SUPPOSING AN ABSURDITY.

Counsel on the other side, while *not directly denying* the existence of this plenary power in the Legislature, *indirectly attempt* to show that no such power exists *by pushing a supposed exercise of the power to an absurdity.* They say, if the Legislature has plenary power to extend the limits of Baltimore City, what is to prevent it from annexing St. Mary's County or Garrett County to Baltimore City?

The question has also been asked, what is to prevent the Legislature from annexing all of Baltimore and Harford Counties and thus depriving the Court of Appeals of one of its members? One answer to such questions was given by a great Pennsylvania Judge in a celebrated case as follows:

In Sharpless vs. Phila., 21 Pa. St., pages 162 and 164, Black, Ch. J., said:

> "There is nothing more easy than to imagine a thousand tyrannical things which the Legislature may do, if its members forget all their duties; disregard utterly the obligations they owe to their constituents, and recklessly determine to trample upon right and justice. But to take away the power from the Legislature because they may abuse it, and give to the judges the right of controlling it, would not be advancing a single step, since the judges can be *imagined* to be as corrupt and as wicked as legislators. * * *
>
> "I am thoroughly convinced that the words of the constitution furnish the only test to determine the validity of a statute, and that all arguments, based on general principles outside of the constitution, must be addressed to the people, and not to us. * * * "

Another answer, which ought to quiet the alarms which counsel *express*, is found in the last provision of Section 1 of Article 13 of the Constitution:

> "Nor shall any change be made in the limits of any county, whereby the population of said county would be reduced to less than ten thousand white inhabitants, or its territory reduced to less than four hundred square miles."

This is a limitation of the power of the Legislature to extend the City limits, not because the word "county" includes city, but because the limitation of the power of the Legislature is unqualified. The Legislature could not reduce the limits of a county to less than four hundred square miles by a law *passed for any purpose*, and hence could not do it by a law to extend the limits of Baltimore City. This limitation, it will also be noticed, does *not* depend on any *referendum*. The Legislature could *not* reduce Baltimore County or Anne Arundel

County to less than four hundred square miles, *with a referendum* any more than it could *without*.

The Act of 1918, Chapter 82, leaves in Baltimore County six hundred square miles and in Anne Arundel County four hundred and twenty-six square miles and hence, it is not repugnant to the provision just quoted.

To the foregoing may be added the opinion of the late HON. JOHN V. L. FINDLAY, former City Counselor and Member of Congress and for many years one of the leading lawyers and citizens of the State. This opinion was given by Mr. Findlay shortly after the passage of the Act of 1888, and before the decision of Daly vs. Morgan. It was appended to the City's brief in Daly vs. Morgan.

Mr. Findlay not only gave his own opinion, but quoted COL. CHARLES MARSHALL to the same effect. His opinion also contained the interesting prediction that the Act of 1888 would be the last one which the Legislature would pass with a referendum.

OPINION OF HON. J. V. L. FINDLAY.

"I agree fully that the belt could have been annexed by a legislative act without a popular vote. I don't believe that Article 13 of the Constitution, headed New Counties, and providing the means by which they may be established, has anything to do with or is any limitation upon the power of the Legislature to establish or change the boundaries of the cities in the State. Nor is it altogether fair that when provision is made for taking a

vote that the city should be left out as it has been in this case.

* * * * * * *

"The learned gentleman who has prepared an adverse opinion to the Act seems to concede that with no discrimination as to taxes the Belt could have been constitutionally annexed without a popular vote and by a mere exertion of the legislative will. In that opinion I entirely concur; but the mere submission of the question to a vote does not render the Act unconstitutional.

* * * * * * *

"The Legislature, I think, could have submitted the question to a vote without reference to the provision in the Constitution. I say this to meet what appears to have been urged as an objection to the validity of the bill based upon the proposition that there is no authority to be found in the Constitution authorizing the submission of the question of city extension or change of boundary to be voted on by the people affected by the change; that this provision in the Thirteenth Article refers to the *counties* merely, and that by reason of the mistake in applying it to the city the Act must fail. Concede its non-application to the city, yet still I think the Legislature had the power of submission as a question quite independent of constitutional authority. I also agree fully, as I have stated, that annexation could have been accomplished without the intervention of a vote exactly, as the addition to Richmond was made in the case cited, and without any remedial provisions in mitigation of taxes. I understand this to be the clear opinion of Mr. Marshall, and it seems to me that the opponents of annexation

residing in the Belt can derive but cold comfort from it. If annexation is voted down under this Act under the influence of idle doubts as to its validity, I will venture to predict that it is the last time the question will be submitted for popular approval on any terms. This will make the second time that the experiment of taking a vote has failed, and it is not likely, in view of such experience, that it will be repeated."

See also the opinions of George Whitelock, Esq., Hon George R. Gaither, Alexander Hagner, Esq., Richard Dallam, Esq., and others, published in full in the League Pamphlet.

II.

Counsel on the other side also urge that there is a difference between the power of the Legislature to extend the limits of Baltimore City now, and prior to 1851 when the City was in Baltimore County.

SIGNIFICANCE OF THE WORD "NOW."

When the Court of Appeals said that the Legislature has the same power *now* which it has always exercised, it was an answer to the argument that there is a difference between extending the limits of Baltimore City, which now is not in a county, and extending the limits of Cumberland, Frederick, Cambridge and other cities, which are in counties. The Court decided that there is *no difference which affects the power of the Legislature* to make the extension. The limits of Baltimore City

had been nine times extended without a referendum by the following Acts:

By the Act of 1745, Chapter 9,
" " 1747, " 21,
" " 1750, " 11,
" " 1753, " 20,
" " 1765, " 2,
" " 1766, " 22,
" " 1773, " 4,
" " 1782, " 2,
" " 1816, " 209.

Everyone of these extensions had been made while Baltimore City was in a county, just like the other cities of the State. After the last of these extensions Baltimore City *was separated from Baltimore County* by the Constitution of 1851, and it was urged upon the Court, as it is now, that that makes a difference. In answer to this contention the Court said:

> "The Legislature has, therefore, in our opinion, the same power now (when Baltimore City is not in a county) which it has always exercised (when Baltimore City was in a county) to extend the limits of Baltimore City by including therein parts of Baltimore county, and this, too, with or without the consent of the majority of the voters residing within the districts annexed."

We submit, therefore, that the majority who decided Daly vs. Morgan were clearly right in holding—

(1) That the power of the Legislature to extend the limits of Baltimore City was not derived from the Con-

stitution, but was one of the plenary powers of the Legislature as the representative of the sovereignty of the people.

(2) That the word "county" in Section 1 of Article 13 of the Constitution should not be construed to mean or include Baltimore City.

(3) That the limitation upon the power of the Legislature to change a county line so as to take away part of the county, applies only to taking away part of a county and putting it in another county, and, therefore, does not apply to taking away part of a county and putting it in Baltimore City.

(4) As this limitation does not apply to an Act extending the limits of Baltimore City, the Legislature may pass such an Act "with or without the consent of a majority of the voters residing within the districts annexed."

CONTENTIONS OF COUNSEL ON THE OTHER SIDE ON THIS POINT.

In support of their contention that the decision in Daly vs. Morgan is erroneous great stress is laid on the debates in the *Convention of 1864.* Apparently there were no debates in the *Convention of 1867,* throwing light on the question, for they would have been referred to by Chief Judge Alvey, who was a member of the Convention of 1867.

Why do counsel refer to the debates in 1864?

The debates in a constitutional convention can never be given the effect of wiping out or changing clear provisions of the Constitution as adopted. The Constitution is the supreme law of the State, not what individual members of the convention may have said in the course of discussion. What they said in discussion is *immaterial, except it may throw light on some ambiguous provision* in the Constitution. If the provision is clear the debates are immaterial, for the people, in ratifying the Constitution, act on the Constitution as written and not on the discussion which preceded its submission.

In Cooley's Constitutional Limitation, 7th Ed., p. 101, the author says:

> "It is quite possible for a clause to appear so clear and unambiguous to the members of a convention as to require neither discussion nor illustration; and the few remarks made concerning it in the convention might have a plain tendency to lead directly away from the meaning in the minds of the majority. It is equally possible for a part of the members to accept a clause in one sense and a part in another. And even if we were certain we had attained to the meaning of the convention, it is by no means to be allowed a controlling force, especially if that meaning appears not to be the one which the words would most naturally and obviously convey. For as the constitution does not derive its force from the convention which framed, but from the people who ratified it, the intent to be arrived at is that of the people, and it is not to be supposed that they have looked for any dark or abstruse meaning in the words employed, but rather that they have accepted them in the sense most obvious to the common understanding, and ratified the instrument in the belief that that was the sense designed to be conveyed."

In Smith vs. State, 66 Md. 217, this Court said:

> "Even when a court is convinced that the Legislature really meant and intended something not expressed by the

> phraseology of the Act, it will not deem itself authorized to depart from the plain meaning of the language which is free from ambiguity."

In Stein vs. Safe Deposit & Trust Company, 127 Md. 215, Judge Stockbridge, speaking for this Court, thus stated clearly and succinctly the primary rule of construction applicable to all written instruments:

> "The question is not what the testator meant, or may have meant, but simply what is the meaning of the words he used. Schapiro vs. Howard, supra. And that language is to be interpreted according to its plain meaning and import, not by applying some strained or artificial course of reasoning."

The debates in the Constitution of 1864 may throw light on the meaning of Section 1 of Article 10 of the Constitution of 1864, but that section is not now under consideration. The section now being discussed is Section 1 of Article 13 of the Constitution of 1867. Counsel do not refer to any debates in the Convention of 1867.

SPECIAL QUALIFICATION OF JUDGES WHO HEARD DALY VS. MORGAN.

In construing Section 1 of Article 13 of the present Constitution, the Judges who composed this Court in 1888, and who heard and decided the case of Daly vs. Morgan, had some opportunities for knowing the meaning of the words used in that section, which are not now open to the Judges of this generation, who now compose this Court. Of the Judges who decided Daly vs. Morgan three (Judges Robinson, Miller and Alvey) had been members of this Court from its first organization under the Constitution of 1867; one (Judge Miller) had been a member of the Constitutional Convention of 1864; one

(Judge Alvey) had been a member of the Constitutional Convention of 1867; Judge Robinson had been a Circuit Judge under the Constitution of 1864; and *all of the Judges* (Alvey, Robinson, Miller, McSherry, Stone, Irving and Bryan) *had been contemporaries of the men who wrote the Constitution of 1867, had no doubt followed the proceedings of that convention as reported in the newspapers from day to day, and had been voters when the Constitution was submitted to the people for adoption.*

They Had the Best Opportunity to Know How the Voters Understood This Question.

They had all the light which is now available to your Honors, and they had the additional information of their own recollections. With all of this light upon the subject they differed, but *they decided it, and by a substantial majority of 5 to 2.* How can your Honors be asked, *with less light,* to feel not only that they were wrong, but *to feel so strongly that they were wrong, as to justify your Honors in overruling their decision?*

Article 13 of the Constitution of 1867 is not a mere copying of Article 10 of the Constitution of 1864 with changes of phraseology. Article 10 was headed "Counties and Townships," and consisted of two brief sections: Section 1 relating to new counties, removing county-seats and changing county lines, and Section 2 providing for townships instead of existing election districts. Article 13 of 1867 is headed "New Counties." It leaves out entirely Section 2 of Article 10 relating to townships, very materially modifies Section 1 as it had been in

Article 10, adds Sections 2, 3, 4 and 5 relating to the new county of Wicomico thereby provided for, and adds "Sec. 6. The General Assembly shall pass all such laws as may be necessary more fully to carry into effect the provisions of this article."

The words in the Constitution of 1864, "the limits of the lines proposed to be changed," were struck out and in lieu thereof, in the Constitution of 1867, we find, "the district, which under said proposed change would form a part of a county different from that to which it belonged prior to said change."

The framers of the Constitution of 1867 must have intended this change to have some effect.

What effect can be attributed to this change except that given it by the Court in Daly vs. Morgan?

The whole personnel of the two conventions was different. Political control of the State had changed between 1864 and 1867. That is why another Constitution was written within three years. The Constitution of 1867 is not a mere revision of that of 1864, but is a new creation, written by men of a different political school.

Counsel quote what Mr. Ridgely said in the Constitutional Convention; but Mr. Ridgely was *not a member of the Constitutional Convention of* 1867—he was a member of the Convention of 1864. The provision is not the same in the two Constitutions.

The language of the Constitution of 1864, Article 10, Section 1, is:

> " * * * Nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the limits of the lines proposed to be changed."

In the Constitution of 1867 the provision is (Article 13, Section 1):

> " * * * Nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the district, which, under said proposed change, would form a part of a county different from that to which it belonged prior to said change."

Hence, what Mr. Ridgely said in the Convention of 1864 throws no light on the changed provision in the Constitution of 1867.

(2.)

Another contention is that the interpretation put on this provision of the Constitution by this Court in Daly vs. Morgan, violates some inherent right of local self-government.

This contention has been recently answered by this Court. In Johnson vs. Luers, 129 Md. 30, Chief Judge Boyd, speaking for the Court, said:

> "It must now be conceded that the great weight of authority denies *in toto* the existence, in the absence of special constitutional provisions, of *any inherent right of local government which is beyond legislative control.*"

Reflection, we submit, leads to the conclusion that the question whether or not a bare majority of the voters who settle around the borders of a growing city should have a veto power upon the territorial growth of the city, does not involve any principle of self-government, but

simply a question of the public welfare and of public policy; a question whether the public health, public order and the growth and development of the community would be better subserved by leaving such people under the government of County Commissioners or erecting them into a separate municipality, or including them within the existing municipality. All of these are purely questions for the Legislature to determine. So long as the municipality into which such citizens are to be incorporated *has the same democratic form of government* and *is controlled by the same Legislature* as the government of the county, and the citizens are given *the same right to participate* in the municipal government as in the county government, they *have just as much self-government in the municipality as they had in the county.*

To give to a bare majority of the voters in such territory the sole right to decide upon a question involving vitally the progress and welfare of a great city, which comprises nearly half the people of the State, and a question which, therefore, *involves the public welfare of the entire State,* the public prosperity, health and good order; to submit such a question to a small percentage of the people of the State and that percentage not a disinterested portion of the community, but a portion whose pecuniary interests would be affected by the decision; is *contrary to every principle which demands a fair and just decision of the question.*

City taxes are necessarily higher than county taxes. In the cities, situated in counties, persons and property pay two rates, county and city, which together approximate the single rate paid in Baltimore City. A city

government cannot be furnished at a county tax rate. It is not furnished anywhere. The people in Cumberland, Frederick, Hagerstown, Annapolis, Westminister, Prince Frederick, Easton, Cambridge, Elkton; and every other city in the State pay more than county taxes. The community surrounding Baltimore, if erected into a separate municipality and given municipal government, would be subjected to more than county taxes. The question, therefore, whether or not the public welfare would be subserved by including this surrounding community in the City necessarily involves higher taxes to the taxpayers in that community. Their pecuniary interest is against city extension, and that pecuniary interest *disqualifies them* to be made the *sole judges* of the question *whether or not the public welfare requires the extension so as to include them in the City.*

In Wade vs. City of Richmond, 18th Grattan 583, the Legislature, without any referendum, annexed a part of Henrico County to the City of Richmond. The Act was attacked on grounds which are urged in this case, but was upheld.

The Court said (18th Grattan 620, 622):

> "The third and last enquiry is into the alleged grievances of the plaintiffs in error, resulting from the withdrawal of population, territory and taxable wealth from the County of Henrico, and the subjection of the annexed inhabitants to liabilities for the city debt and the city taxes, which they would have escaped without this act of annexation. The resources of the county are greatly depleted by this measure, so that its remaining citizens and creditors may well object to the loss of the accustomed contributions; and the abstracted citizens may revolt at the prospect of city burthens. But provided the General Assembly has the right thus to

change and shift these municipalities, as I have endeavored to show, these consequences, however grievous, are addressed to the legislative will and discretion, and cannot legitimately undergo judicial supervision, or challenge judicial redress. * * * It is also contended that it is by means of a voluntary removal only, as contra-distinguished from a legislative Act, that a citizen previously without the city, can be brought within its authority and subjected to its charges. But it should be remembered that the expediency, if not the necessity, of its incorporation has grown out of the voluntary acts of this suburban population in making these thick settlements, and projecting them upon the prolongation of the streets, so as to make them conform to the plan of the city. It is not doubted, however, that these exterior settlements were, in no small measure, dictated by the expectation of escaping city taxes, at the same time that the facilities of doing business, the chances of lucrative employment, and other advantages in the city, were secured to the inhabitants by their position on its outskirts. Yet, they must be presumed to know, that their establishment of an actual town might eventually expose them to the liability of being put under a municipal charter, at the pleasure of the General Assembly. No one has ever yet doubted the supreme authority of that body to grant charters to towns. * * * Had it pleased the Assembly to grant an independent charter to this exterior town, it is admitted by the appellants' counsel that no constitutional exceptions could have been taken to the measure, although the grievances now complained of would doubtless have been aggravated by such a separate corporate existence. How, then, shall the extension of the charter of the interior town over the exterior one, which, in the progress of time and the pursuit of private interests, had grown up on its borders, be deemed unconstitutional, while all the city privileges of police, gas, water, etc., were obtainable at far less cost and inconvenience?"

NO VIOLATION OF PRINCIPLE.

Legislative extension of the City's limits does not violate the principle of government by consent of the gov-

erned, because when people settle on the edge of a growing town or city they must be presumed to know that they are liable to be taken into the city by the Legislature whenever the Legislature thinks that the public welfare would be served by doing so. In the case of Daly vs. Morgan (69 Maryland Reports, page 461) the Court of Appeals refers to the fact that everyone must anticipate the extension of the limits of a growing city in these words:

> "No one knew better than the framers of the Constitution of 1867, that the time must come, and that not far distant, when the extension of the limits of a great city like Baltimore would be absolutely necessary to its proper growth and development."

Those who locate near the city limits are bound to know that the time may come when the Legislature will extend the limits and take them in. No principle of right or justice or fairness places in their hands the power to stop the progress and development of the city, especially in view of the fact that the large majority of them have located near the city for the purpose of getting the benefit of transacting business or securing employment or following their profession in the city.

They would be too apt to view the question from the standpoint of their personal interests, whereas it is the duty of the Legislature to decide the question from the standpoint of the public welfare.

Judge Bryan, in his dissenting opinion, in Daly vs. Morgan, discussing the purpose of Section 1 of Article 13 of the Constitution, said (69 Md. 472):

"This section was intended to give constitutional security to local government."

It seems to us more probable, as above stated, that the purpose was to give security to the weight of the counties in the Legislature; to prevent the Legislature from diminishing the representation of one county or increasing that of another, or multiplying the representation of one county by dividing it into several, at its unrestrained pleasure. But whatever the purpose of this provision, its language is plain, and certainly, we submit, it had no reference to "local government." The people in the territory annexed by the Act of 1918, Chapter 82, had no local government. The people contiguous to Baltimore City never had a local government. They have had a voice in the government at Towson, by which their local affairs were managed, but they will have an equal voice in the government of the City, and that government will be nearer to them in distance and in every respect, and more suited to their conditions than the County Commissioners at Towson.

Extending the limits of Baltimore City is no more an invasion of the rights of local self-government than extending the limits of Cumberland. In each case the Legislature, without a referendum, subjects residents and property to city government and city taxes.

But it is contended that while the Act of 1918, Chapter 82, *imposes nothing* upon the people or property in the territory described therein different from what would be imposed upon the people and property which might be included in the Act extending the limits of Cumberland,

still the Act of 1918, Chapter 82, *takes away something* from the people in the territory included therein and from the counties.

Counsel argue that the Act of 1918, Chapter 82, takes away the birthright or citizenship of people residing in the territory included therein. But they are not *citizens* of Baltimore County.

2 Words & Phrases, 1164 et seq.
6 Am. & Eng. Ency. of Law 15.

They are citizens of the United States and of Maryland and are so now after the Act of 1918, Chapter 82, as much as they were before. XIV Amendment Const. of the United States.

The Act does not take away their right to participate in the government, both State and local, under which they live. They have the same voice in the government of the State and the opportunity to have the same voice in the government of the City now which they previously had in the government of Baltimore County. They are not even compelled to be residents of Baltimore City. They still have the same right which they had before to reside in Baltimore City, or Baltimore or St. Mary's or any other county, as they may prefer. The Act does take away from Baltimore and Anne Arundel counties territory and taxable basis and, upon the assumption that the people will continue to reside where they now are, also population; but it also relieves the counties of all the expenses of maintaining and lighting roads, streets and highways, maintaining schools, police, fire department and the performance of other governmental duties in that territory.

If there is anything wrong in the Legislature taking away from the counties part of the taxable basis and population which has settled around the borders of the City and which is due to proximity to the City, it would be *no less wrong if done with a referendum,* for there would be the *same result* in loss of population and territory and taxable basis.

The Act of 1918, Chapter 82, is not the first time when territory, population and taxable basis were taken away from Baltimore County *without a referendum to the people in the territory taken away* from the county.

By Act of July 25, 1726, a part of Baltimore County was cut off and put in Anne Arundel County. Park's Collection of Maryland Laws, p. 290. Also summarized in 1 Kilty, under date July, 1726.

Prior to 1851 Baltimore City was in Baltimore County. By the Constitution of 1851 there was taken away from Baltimore County, not as much territory, but a very much larger population and taxable basis than is taken away by the Act of 1918, Chapter 82.

Wright vs. Hamner, 5 Md. 375-6.
State vs. Schillinger, 6 Md. 449.

In 1851 Baltimore City had a population of 169,054, and an assessable basis larger than that in the Act of 1918, all of which were taken away from Baltimore County by the Constitution of 1851 *without any referendum to the people in the territory so taken away from the County.* There was a referendum upon the whole Constitution, but that referendum was *to the people of the entire State.* The Constitution was a law, adopted by the people of the

whole State, and by that law territory and taxable basis and population was taken away from Baltimore County. The Act of 1918, Chapter 82, is a law passed by the Legislature, representing the *whole* people. By Article XVI of the Constitution the opponents of city extension might have had a *referendum to the people of the entire State on this law* if they had desired, just as there was a referendum of the Constitution of 1851 to the people of the entire State.

REFERENDUM AMENDMENT, ARTICLE XVI.

Section 2 of the referendum amendment (Act of 1914, Chapter 673) provides:

> "If before said first day of June there shall have been filed with the Secretary of State a petition to refer to a vote of the people any law or part of a law capable of referendum, as in this Article provided, the same shall be referred by the Secretary of State to such vote, and shall not become a law or take effect until thirty days after its approval by a majority of the electors voting thereon at the next ensuing election held throughout the State for members of the House of Representatives of the United States."

Section 3 contains the following:

> "Provided that any Public Local Law for any one County or the City of Baltimore, shall be referred by the Secretary of State only to the people of said County or City of Baltimore, upon a referendum petition of ten per cent. of the qualified voters of said County or City of Baltimore as the case may be, calculated upon the whole number of votes cast therein respectively for Governor at the last preceding gubernatorial election."

Reading the two sections together, we have a definition by the people in a constitutional amendment of what is to be regarded as a *law of general interest* which can be enacted only by the Legislature representing *all* the peo-

ple of the State and approved or disapproved by a referendum to all the people of the State. If the *law affects more than one county it is a general law,* and if referred under Article XVI, the *referendum must be to the entire State.* This is the supreme law of the State. This referendum amendment provides a way for submitting this very Act of 1918 to a referendum, but requires that that referendum shall be to the voters of the entire State. How could the Legislature in the face of this constitutional provision submit this Act to a referendum of the voters only in the territory to be annexed?

Even if it could legally do so, certainly the principle laid down in this amendment, approved by the Legislature and approved by the voters at the polls, that *such a question ought to be submitted to the entire people,* is a strong argument in favor of the propriety of the action of the Legislature in refusing to submit this public question, affecting the welfare vitally of nearly half the people of the State and materially the entire State, to the possible veto of a bare majority of the voters living in the territory to be annexed.

OPINION OF GEORGE WHITELOCK, ESQ.

In his opinion, given March 13, 1916, Mr. Whitelock said:

> "Reference to the statutes of the Province and the State shows that many Acts of Assembly have extended the limits of municipalities as stated by the Court of Appeals in the case of Daly vs. Morgan.
>
> "If in the face of the historic and legal record, it be now asserted that any exigency of justice or of liberty requires the Legislature to provide a referendum in present condi-

tions, it is entirely clear that the voters of the territory proposed to be annexed are not the only citizens of the State entitled to be consulted. All of the registered voters of the two counties affected by the change, as well as all of the voters of Baltimore City, have direct, material interest in the result of the enactment; and even though the voters of the rest of the State may not have such an interest, it has been argued that they must nevertheless be consulted, because under a recent Constitutional amendment (Acts of 1914, Ch. 673), if there is any referendum at all, it must be to the voters of the entire State.

"But the Legislature represents every portion of the State of Maryland, including the territory proposed to be annexed to the City of Baltimore, and no principle of justice or of liberty can require it to relinquish, in favor of the voters of a particular district, the exercise of its plenary power to establish and change the boundaries of the City, a mere political subdivision of the Legislature's own creation."

II.

Contention That Act Is Void Because It Includes a Part of Anne Arundel County.

This contention is based on:

1. The fact that the Court of Appeals in Daly vs. Morgan did not refer to Anne Arundel County; and

2. The contention that Anne Arundel County does not adjoin Baltimore City at any point.

His Honor, Judge Duncan, says:

"In this case under the Act of 1918, there is an attempt to annex a large amount of Baltimore County's territory to Baltimore City and then to cross over the Baltimore County line and annex and change the lines of Anne Arundel County; a county that is at no point contiguous to the territory

of Baltimore City. Now mark the language of the Court in Daly vs. Morgan: 'The Legislature has therefore in our opinion *the same power now which it has always exercised to extend the limits of Baltimore City by including therein parts of Baltimore County, etc.*'

"It will be observed that the Court was guarded in its language. The expression was not that the Legislature has the same power now which it always had to extend the limits of Baltimore City; but there was carefully added these words, 'By including therein parts of Baltimore County.'

"The case at bar, therefore, presents a new and altogether different case from Daly vs. Morgan, and, in my judgment, is in conflict with Article 13, Section 1, of the Constitution."

After arguing at length that this paragraph in the opinion of the Court of Appeals was merely a passing remark, his Honor later discovered that the Court "was guarded in its language" and "carefully added" certain words.

Because the Court of Appeals said that the Legislature has plenary power (not derived from Article XIII of the Constitution, but inherent in the Legislature as the representative of the people) to extend the limits of Baltimore City by including therein parts of Baltimore County, the learned Judge concludes that the Legislature has *not* the power to extend the limits of Baltimore City by including therein part of Anne Arundel County.

The unavoidable conclusion, it seems to us, is just the contrary. If the Legislature has plenary power to include parts of Baltimore County in Baltimore City, it has the same power to include part of Anne Arundel County in Baltimore City; unless some provision of the Constitution can be found which limits the power of the Legisla-

ture to include part of Anne Arundel County, and does not limit its power to include part of Baltimore County.

There is no special provision of the Constitution applicable peculiarly to Anne Arundel County in this respect. If the provision of Section 1 of Article 13 is a limitation on the power of the legislature to extend the city's limits, then that limitation applies to Baltimore County and to Anne Arundel County equally; it applies to *both* or it applies to *neither*. When the Court of Appeals decided that it does not apply to an act extending the city's limits so as to include part of Baltimore County, the Court at the same time necessarily decided that it does not apply to an act extending the limits of Baltimore City so as to include a part of Anne Arundel County.

In the paragraph referred to by his Honor, Judge Duncan, the Court of Appeals included in *one sentence* a *statement of the existence of the power* in the legislature *and the frequent exercise of that power* in the *past*. The Court said:

> "The Legislature has, therefore, in our opinion, the same power now which it has always exercised to extend the limits of Baltimore City by including therein parts of Baltimore County, and this, too, with or without the consent of a majority of the voters residing in the districts annexed."

In the history of the city there had been many acts extending its limits, but always by including therein parts of Baltimore County. Up to that time the legislature had not considered that the future growth and development of the City required the inclusion of the Anne Arundel side as well as the Baltimore side of the magnificent

harbor upon which the city is situate. Referring to *prior extensions of Baltimore City,* the Court properly said "by including therein parts of Baltimore County." It was *merely an accurate statement of the historical exercise* of the power of the Legislature to extend the limits of Baltimore City. It would have been inaccurate for the Court to have said that the Legislature has therefore, in our opinion, the same power now which it had always exercised to extend the limits of Baltimore City by including therein parts of Baltimore *and Anne Arundel County;* because the Legislature had never exercised that power so as to include in Baltimore City a part of Anne Arundel County. But when the Court stated the historical fact as to the frequent exercise of the power to extend the limits of Baltimore City by including therein parts of Baltimore County and added that it *has that same power now* because that power is not limited by the provisions of Section 1 of Article 13 relied on, the decision established the existence of the power in the Legislature. Whether it should be exercised so as to include a part of Baltimore County or a part of Anne Arundel County, or a part of both, was a matter for the legislature to decide. The power exists in the Legislature, *unlimited* by any provision of the *Constitution,* and the Court can no more be asked to bound the exercise of this power by the Anne Arundel County line than it could by the Baltimore County line. Only the Constitution can limit the plenary power of the Legislature.

(2.)

But it is further urged that this plenary power in the

legislature exists only to extend the limits of Baltimore City by including part of an *adjoining* county, and that Anne Arundel County does not adjoin Baltimore City and therefore, the legislature has no power to annex a part of Anne Arundel County.

But what provision of the Constitution is there which says that the legislature has power to extend the limits of Baltimore City by taking in only a part of an *adjoining* county?

As his Honor, Judge Burke, speaking for this Court said in Painter vs. Mattfeldt, 119 Md. 472:

> "The party assailing the Act must point out the special provision of the Constitution to which it is obnoxious."

Where is the special provision which says that the legislature cannot extend the limits of Baltimore City so as to include a part of Anne Arundel County; or that the legislature cannot extend the limits of Baltimore City so as to include a part of a county which does not adjoin the city?

Moreover, the contention that Anne Arundel County does not adjoin Baltimore City is very thin and technical. It is based on the supposition that the Anne Arundel County line extends to the *middle or current* of the Patapsco river, and that the Act of 1816, Chapter 209, extending the limits of Baltimore City to the "Patapsco River, and running with and bounding on the said main branch * * * to the place called Ferry Point," limits the city line to the north side of the river, thus leaving

the portion of the river between the north shore line and the centre or current in Baltimore County.

This was decided in the old case of Raab vs. State, 7 Md. 483. But this Court referring to the Raab case said in Western Maryland R. R. Tidewater Co. vs. Baltimore City, 106 Md. 573:

> "If we were construing the Act of 1704 (which is now Section 147 of Article 75 of the Code), without regard to the decision in Raab's case, we would be inclined to adopt a similar view to that of Judge Brewer, who decided in the lower Court that by the Act of 1816, Chapter 209, the jurisdiction of Baltimore City extended to the middle of the river, because he thought that when that part of Baltimore County was added to the city, it could not have been intended by the Legislature to leave under the control of the county the water from the shore to the middle of the river, and as the policy of the State, as declared by the Act of 1704, was to extend the jurisdiction of counties to the channels of navigable rivers it should likewise be construed to apply to Baltimore City. When Baltimore City was vested with control over the land to the shore it does seem to be singular that an important city like it was then, with the prospect of becoming much more so as it has, should be limited to the line on the shore while the counties could go the channel."

If the decision in the Raab case is wrong, as this Court very strongly suggested, then the Baltimore City line ran to the middle of the main branch and Baltimore City and Anne Arundel County were adjoining prior to the Act of 1918.

The same result follows if this Court should follow out its disapproval of the Raab case by overruling it as it has a perfect right to do. The same result would have followed if the legislature by a separate act had said

that the southern line of Baltimore city on the main branch of the Patapsco river shall be considered as extending to the middle of the stream.

No one will claim that a referendum would be necessary to such an act because the entire territory involved is covered by water; there is not a voter or person on it to whom a referendum would be possible; and over that water the city had long had jurisdiction by legislative enactments.

Revised charter, p. 13, title HARBOR, DOCKS AND WHARVES.

Surely if there were any virtue in the contention that the legislature could not extend the limits of Baltimore City into Anne Arundel County because Anne Arundel County was not a contiguous county, *the Legislature might very well ignore the thin stretch of water between* Baltimore and Anne Arundel County and consider Anne Arundel County as practically adjoining.

This portion of Anne Arundel County is joined to the city by an expensive bridge costing $1,300,000.00, built chiefly, and *maintained entirely, at the city's expense,* and also by the closest ties of commercial and social intercourse.

That the Legislature has the same power to annex a part of Anne Arundel County without a referendum as it has to annex a part of Baltimore County is explicitly covered by the joint opinion of Messrs. Whitelock, Marbury, France and Gaither, which was published in The

Daily Record of March 16, 1916, and which is as follows:

"Baltimore, Md., March 13, 1916.

Hon. James H. Preston,
Mayor of Baltimore.

Dear Sir: Complying with your request for our professional opinions upon certain legal questions which have been raised in connection with Senate Bill 135, for the extension of the limits of Baltimore City, we beg to say:

1. That there is no provision in the Constitution of Maryland requiring an Act for the extension of the limits of Baltimore City to be submitted to the voters in the territory to be annexed, and, therefore, the Legislature has full power to extend the limits of Baltimore City without any referendum to the voters in the territory to be annexed to the City. The Court of Appeals so decided in Daly vs. Morgan, 69 Md. 460.

2. That the Legislature has the same power to extend the limits of the City, so as to include a part of Anne Arundel County, that it has to extend the limits by including a portion of Baltimore County. This is the necessary effect of the decision in Daly vs. Morgan, supra.

3. That the Legislature of Maryland has frequently passed Acts extending the limits of Baltimore City, and of other cities in this State, without any referendum to the voters in the territories annexed to such cities; and that similar Acts have been frequently passed by the Legislatures of other States, and that the extension of the limits of Baltimore City by an Act of the Legislature, without any referendum to the voters in the territory annexed, would not violate any provision of our Constitution or any fundamental American principle.

We are handing you herewith our separate opinions, giving our reasons for the conclusions above stated.

Yours very truly,

GEO. WHITELOCK,
W. L. MARBURY,
JOSEPH C. FRANCE,
GEORGE R. GAITHER."

III.

CONTENTION THAT THE ACT DEPRIVES THE COUNTY COMMISSIONERS AND THE PEOPLE OF BALTIMORE COUNTY OF THEIR PROPERTY WTHOUT DUE PROCESS OF LAW.

In the answer in the case of McGraw vs. Merryman, the contention is made that the County Commissioners own 27 acres of land in the territory annexed to Baltimore City, which they had bought at tax sales and that they would be deprived of this property by the Act without compensation. The answer to this contention is that they will not be deprived of any property at all. There is nothing in this law or any other law to prevent the County Commissioners of Baltimore County from owning property in Baltimore City nor is there anything in the present Act which attempts to transfer the title of any such property owned by the County Commissioners of Baltimore County. The language of Section 9 of the Act which provides for the payments to be made by the City to the Treasurers of the Counties on account of the transfer of the public property is as follows:

> "The title of the County Commissioners of Anne Arundel County and Baltimore County, respectively, or of other public officials or bodies holding title to any schoolhouses and lots, engine-houses and lots, station-houses and lots, together with the furniture and equipment therein or other public property situate within the territory annexed by this Act to Baltimore City, shall become and be vested in the Mayor and City Council of Baltimore as of January 1st, 1919,—all of said property to be thereafter held by the Mayor and City Council of Baltimore upon the same public trusts upon which it has heretofore been held by the said County Commissioners or other public officials or bodies of said counties, respectively."

This transfers only the title to property such as school houses, engine houses and police stations, which is held for the use of the public and which is to be thereafter held by the City for the same use of the same public.

The expression "public property" in the above provision of Section 9 does not mean property owned by the public, in the sense that the title to it is in the County Commissioners. It means property held upon public trusts, that is, for the use of the public, for the section expressly provides that "all of said property to be thereafter held by the Mayor and City Council of Baltimore upon the same public trusts upon which it has heretofore been held."

The construction of the words "public property" is governed by the familiar principle "*noscitur a sociis.*"

Lewis-Southerland, Statutory Construction, Secs. 414-418.
Scaggs vs. B. & O. R. R., 10 Md. 269.

There is a well recognized distinction between the public property of a city or county, which is property held for the use of the public, and the private property of such city or county.

Hunter vs. Pittsburgh, 207 U. S. 179.

Moreover, the Act does not transfer the title of any property without compensation. It provides for compensation to be paid by the City to the County.

NOT TAKING PROPERTY, MERELY CHANGING THE MANAGEMENT.

The Act does not take away a dollar's worth of property of any kind from any owner. Every house, lot, factory, store or other property of every kind in the territory to be added belongs to the same person or corporation now that owned it before the Act. The Act transfers the bare title of public property, such as school houses, engine houses, etc., from the County Commissioners to the Mayor and City Council of Baltimore, but the County Commissioners are not the real owners of this property, they merely have the legal title as trustees or agents for the real owners. The real owners of the school houses are the children who can use them, and the real owners of the engine houses are the persons whose property is protected by them. All of the people within the territory to be annexed who now use the schools or are protected by the engine houses, police stations, etc., will have the same use of them after annexation as before, and the Bill requires the City to pay the counties for any use which any residents outside of the territory to be annexed could formerly make of this public property, of which they have been deprived by the annexation.

The passage of the Bill by the Legislature did not take property away from the County Commissioners which belonged to them and give it to the Mayor and City Council of Baltimore, because the true relation of the County Commissioners to this public property and to the territory proposed to be added to the City is that of superintendents entrusted by the State with the governmental supervision over this territory, just like a

superintendent of a farm or factory who is entrusted by the owner with the management of the farm or factory. Whenever the owner feels that he has found some one else who can develop the farm or factory to a higher state of production, he dismisses the old superintendent and employs the new one. That is exactly what the Legislature did by passing the Act of 1918, Chapter 82.

This was decided in Baltimore vs. State, 15 Md. 376, 465, 491. Speaking of the Act transferring the station houses, etc., from the Mayor and City Council to the Board of Police Commissioners, Chief Judge LeGrand said (15 Md. 491):

> "The Act of the last session has preserved the property for the use of those for whom, and at whose expense, it was purchased. The only change effected in regard to it is as to the persons who shall have the control and management of it. The *use* of it is in no manner altered."

The Legislature has power in its discretion to transfer the title of public property, from one public agency to another.

Hunter vs. Pittsburgh, 207 U. S. 178.
Baltimore vs. State, 15 Md. 376.
Hunter vs. Pittsburgh, 207 U. S. 178-9.
Pumphrey's case, 47 Md. 145.
Thrift vs. Laird, 125 Md. 55.

What payment, if any, should be made by the new manager of this public property (the City) to the former manager (the County), was for the Legislature to decide.

In regard to the provision made in the Bill we quote from a letter addressed to the Senators on February 14,

1918, by the chairman and secretary of the committee who prepared the bill, as follows:

"There has been criticism and misinterpretation of the provision of Section 9. It has been repeatedly stated that this section provides for paying the counties only the value, after annexation, of school houses, engine houses, etc., to the people outside the area annexed.

"You will see by reading the section that this is not correct; on the contrary, the section expressly provides payment for the value or usefulness which these schools, etc., *now have* to the people outside of the area annexed. The people within the area will have the same use of these schools, etc., as before; the people without the area will be deprived of that use, and for that the City is to pay. The section concludes page 13 of the pamphlet:

" 'The intention of this Section is that the Mayor and City Council of Baltimore shall pay to the Treasurer of Baltimore County and the Treasurer of Anne Arundel County, respectively, the fair value of any and every use of the public property hereinabove mentioned situate within the territory annexed by this Act to Baltimore City, of which the inhabitants of the County outside of said territory are deprived by this Act.'

"This subject was debated and considered at length by the Committee. On the one hand it was argued that the title to this public property was being transferred from the County Commissioners to the City, and the City ought to pay the full value. On the other hand, it was argued that the County Commissioners have only the legal title, that the beneficial ownership of the school houses, station houses, engine houses, etc., is in the people in the neighborhood whose children use the school houses and whose property is protected by the Police and Fire Departments; that the County Commissioners have already been paid the cost of these school houses, engine houses, etc., by the taxes paid by the people who live in the territory to be annexed, and, therefore, if the City paid the County Commissioners the cost of these school houses, etc., the County would be paid twice.

"The Committee, after full discussion, concluded that it was fair and just that the County Commissioners should be paid for any value or usefulness which this public property *now has* to the people of the county outside of the territory to be annexed, and which they would lose by the annexation; and further provided that this value be determined by three arbitrators, one chosen by the City, one by the County and the two to choose the third.

"This principle does not require payment for roads, streets or bridges. After annexation to Baltimore City, every inhabitant of Baltimore and Anne Arundel counties will have the same free use of every public road and bridge which they could now have. A public road or bridge, from the standpoint of the County Commissioners, is a liability, not an asset. By annexation to the City the County Commissioners are relieved of the expense of maintaining the roads and bridges, while the people of the County will have the same use of them as before.

"The Annexation Act of 1888 did not make provision for any payment to Baltimore County for the public roads and bridges which were annexed to Baltimore City."

IV.

CONTENTION THAT THE ACT VIOLATES THE REFERENDUM AMENDMENT, ARTICLE XVI.

This contention seems to be that, inasmuch as under the referendum amendment, the Act of 1918, Chapter 82, like other Acts of the Legislature, does not go into effect until June 1st, 1918, and the fiscal year of Baltimore County for which taxes are levied begins on May 1st, 1918, the direction of the Act that the Treasurer of Baltimore County shall collect from the residents in the territory added to Balimore City county taxes only for the proportion of the year between May 1st and December 31st, is an attempt to control the action of the Treasurer be-

fore the Act goes into effect, contrary to the referendum amendment. The answer to this, it seems to us, is clear. The Act of 1918, Chapter 82, did not go into effect until June 1st. If any person in the territory to be added chose to pay his taxes before June 1st, the County Treasurer was at liberty to demand for the entire year, because the Act which directed him to demand only two-thirds of the year was not then in effect. But taxpayers who waited until after June 1st are entitled to receive bills for county taxes for only the proportion of the year from May 1st to December 31st. Taxes in Baltimore County are payable on and after May 1st in the year for which levied (Rev. Code of Baltimore County, Sec. 145), but the Treasurer cannot enforce payment until after the 1st of June of the succeeding year (Rev. Code of Baltimore County, Sec. 148). *While, therefore ,the Treasurer was not obliged to pay any attention to the Act of 1918, Chapter 82, until after June 1st, 1918, when that Act took effect, the taxpayers in the territory annexed were protected by the fact that they were not obliged to pay their taxes until after the Act took effect.* This does not indicate any attempt on the part of the Legislature to make the Act of 1918, Chapter 82, go into effect prior to June 1st, 1918. If such attempt had been made, the *attempt* would have been futile, but the *Act* would not have thereby been made void.

V.

OBJECTION AS TO TAX RATE.

The objection that the tax rate fixed by the Act of 1918, Chapter 82, is higher than the tax rate on "rural" real

estate in the portion of Baltimore City annexed by the Act of 1888, is one that was *preserved* by the active efforts of the Baltimore County Delegation in the House. The fact that the tax rate provided by the Act of 1918, Chapter 82, begins at 60 per cent. of the full City rate, and that the tax rate on owners of "rural" real estate in the present annex is only one-third of the full City rate, does not prove that there is anything unjust, much less illegal, in the tax rate fixed by the Legislature for the territory comprised in the Act of 1918; but simply proves that the 67-cent rate existing on rural real estate in the present annex is absurdly low.

Referring to this the Committee on Draft of the Bill, in their report, said:

> "The Committee have not felt that it was within their province to deal with the present tax rate on rural property in the present annex, but are of the opinion that the Legislature should, by a separate Act, increase the rate on rural property in the present annex so that it should not be at any time less than the rate fixed in this Bill for the new territory to be added by this Bill. A 65-cent rate on real estate within the present annex—41 cents less than the present rate in Baltimore County—is an anomaly and an injustice to the other taxpayers of Baltimore City which the Committee feel should be corrected by the next Legislature."

A Bill was introduced and passed the Senate to carry out this recommendation of the Committee, but was defeated in the House by the activity of the Baltimore County Delegation. It is to be noticed that this 65-cent rate applies only to rural real estate. Personal property has always been taxed at the full rate under the Act of 1888. The graduated rate, beginning at about $1.20, in the Act of 1918, Chapter 82, applies to personal property as

well as real property. The *Act of 1918, Chapter 82, does not create* the 65-cent rate on real estate in the present annex. There is *only one rate* in the Act of 1918 and that applies throughout the entire territory covered by that Act, which the Act declared to be a taxing district.

The Legislature had power to classify the territory thus added to the City by the Act of 1918 into a taxing district.

Daly vs. Morgan, 69 Md. 460, quoted in Curtis vs. Mactier, 115 Md. 395.

Mr. I. Nevett Steele, in his opinion printed as an appendix to the City's brief in Daly vs. Morgan, pages 37 and 39, said:

> "Very strong and almost conclusive evidence that in this State the Legislature possesses the constitutional power which it exercised in passing the nineteenth section of the Act of 1888, is to be found in the fact that for a period of nearly sixty years the Legislature exercised that very power in reference to this same City of Baltimore by repeated legislative Acts of its own, and by Ordinances of the Mayor and City Council of Baltimore directed or authorized by the Legislature. By the Act of 1816, Ch. 209, 'An Act to enlarge the bounds of Baltimore City,' it was provided 'that no part of the city tax of two dollars in the one hundred pounds shall be imposed on any real or personal property within any of said wards (that is, the new wards annexed), until there shall be at least five dwelling houses on each acre of land.'
>
> "By the Act of 1817, Ch. 148, it was provided that commissioners shall be appointed by the Governor 'to mark out and ascertain the limits within the said city, so far as the same is, in their judgment, thickly settled, built up or improved,' etc., and that 'the Mayor and City Council shall not have power to impose any direct tax upon the property without the said limits so to be ascertained.'

"Then came the Acts of 1823, Ch. 185; 1827, Ch. 88; 1830, Ch. 139; 1838, Ch. 168, and then the Act of 1842, Ch. 218, delegating to the Mayor and City Council the power to extend from time to time the limits of direct taxation upon the conditions specified in the Act, all of which have been already referred to in the opinion of Mr. Carter. The Mayor and City Council acted under this law until 1874, when, to use the language of Mr. Carter, 'the limits of direct taxation were made co-terminous with the city limits.' So far as I know, the constitutionality of these laws has never been questioned or denied, and they continued in operation from 1816 down to 1874, and then only ceased to be operative because there was no longer any property left to be affected by them. Baltimore City has thus lived more than half of her chartered life with a separate, prescribed taxing district within her limits, to which her direct city taxation could not extend.

"The Legislature, in enacting the nineteenth section of the Act of 1888, has therefore only exercised the power handed down to it by its predecessors, and until now not questioned, and I think that this long continued and unquestioned exercise of the power from the year 1816 may well be regarded as conclusively establishing that the language of our Bill of Rights was never meant by its framers to prohibit the exercise of such a power."

In the taxing district constituted by the Act of 1918, the Legislature had full power to fix the tax rate, subject only to the requirement of Article 15 of the Declaration of Rights, as recently amended, that the rate on the same class of property should be uniform throughout the taxing district.

There is no tax levied or authorized by the Act of 1918, Chapter 82, which is unequal, discriminatory, oppressive or confiscatory. The Act provides for one tax rate on all classes of property, real and personal (except securities, which are taxed at a lower rate by a general law

throughout the State). This rate begins with 60 per cent. of the full City rate, and advances 2 per cent. each year, so that it will be twenty years before the property in this taxing district comes under the full City rate. For the present, and for at least ten years to come, the tax rate fixed by the Act of 1918 for the taxing district embraced in that Act will be less than the combined county and city rates of Cumberland, Hagerstown, Frederick, Cambridge, Salisbury, Annapolis and other cities in the State.

VI.

OBJECTION TO THE PROVISION OF SECTION 18 OF THE ACT.

Section 18 of the Act provides as follows:

> "Any and every person holding any State or County office in Baltimore County or Anne Arundel County and who may be a resident within the territory annexed by this Act to Baltimore City at the time of the passage of this Act, shall continue to hold such office until the termination of his then pending term as if this Act had not been passed."

In the answer in the McGaw case, it is alleged that one of the Judges of the Orphans' Court of Baltimore County elected for a term to expire December 1st, 1919, one of the members of the Legislature elected in 1917, and two of the County Commissioners elected in 1915 for four years, are residents of the territory annexed to Baltimore City; that the effect of this Act will be to make them residents of Baltimore City, and that the Act is therefore a violation of the provisions of the Constitution

which require these officials to be residents of Baltimore County.

Section 40 of Article 4 of the Constitution requires the Judges of the Orphans' Court to be "residents for the twelve months preceding in the City or County for which they may be elected."

Section 9 of Article 3 of the Constitution requires a member of the Legislature to have been a resident for three years preceding his election in the County for which he is chosen.

No requirement as to residence of County Commissioners is found in the Constitution, Article 7, Section 1. The provisions in reference to the members of the Legislature and Judges of the Orphans' Court, refer to residence at the time of their election.

Hummelshime vs. Hirsch, 114 Md. 55.

The sole purpose of the provision of Section 18, above quoted, was to avoid legislating anybody out of office, but there is nothing in this section which undertakes to say where these County officials shall reside for the remainders of their term.

Counsel on the other side seem to assume that the passage of this Act enlarging the City limits, ipso facto, makes these County officials, who reside in the annexed territory residents of Baltimore City, whether they want to be or not. But that is a matter of their choice. It is for them to determine whether they will remain where they are and become residents and voters

in Baltimore City, or whether they will move out beyond the new line and remain residents and voters in the County.

It would scarcely be held, we submit, that these County officials would forfeit their office simply by remaining at their present homes until the end of their present terms.

23 Ency. of Law, 425 and 426.

In fact, one of the County Commissioners has been spending his winters in Baltimore City for some years past, and the others would scarcely forfeit their offices by remaining in Baltimore City for the short time until the expiration of their present terms; but, if it should be so held, that would not affect the validity of this Act. In that event it would be for these officials to decide whether they will stay in Baltimore City and surrender their offices or whether they will move into the County beyond the new line and retain their offices. The provision of Section 18 is, of course, an effort on the part of the Legislature to let them remain in their present homes and also remain in their present offices until the end of their present terms. But if both cannot be done, then these officials must make the choice.

Counsel will probably not seriously ask the Court to strike down this entire Act and *defeat* the *main purpose* of the Legislature to extend the limits of Baltimore City, simply because *an incidental purpose,* to let the present County officials residing in that district retain their offices without moving their residences, might fail of accomplishment.

Berry vs. Drum Point R. R., 41 Md. 465.
Mayor vs. Dechert, 32 Md. 384.
Steenken vs. State, 88 Md. 708, and cases cited on p. 712.

In the case of Daly vs. Morgan, Chief Judge Alvey thought that the provision with regard to taxation in the Annexation Act of 1888 was void, but also thought that the Act itself ought not to be stricken down on that account. Judge Alvey said (69 Md. 492):

> "There is nothing essential in that section; and its provisions being unconstitutional they may well be rejected without in any manner impairing the other provisions of the Act."

Surely it will not be contended that saving two or three office-holders the trouble of moving their residences temporarily, in order to retain their offices, would be a sufficient reason for asking this Court to declare the whole Act void.

VII.

OBJECTION TO THE TITLE OF THE ACT.

The title of the Act of 1918, Chapter 82, is an exact copy of the title of the Act of 1888, Chapter 98, with the addition of the words "and Anne Arundel County." The Act of 1816, Chapter 209, which extended the limits of Baltimore City to North avenue on the north, Payson street on the west and to the eastern and southern limits as they existed prior to the passage of the present Act and enlarged the City from 1½ square miles to 13 square miles, was "An Act to enlarge the bounds of Baltimore City." The title is simple and comprehensive and every-

thing in the Act relates to the subject-matter expressed in the title. The title is, therefore, sufficient.

Fout vs. Frederick Co., 105 Md. 546; see pages 547 to 553 for collection of prior cases on this subject; and see pages 563-4 for statement by the Court, per Judge Burke, of the purpose and meaning of this provision of Section 29 of Article III.

Baltimore vs. Flack, 104 Md. 116 to 118, per McSherry, Chief Judge.

Bond vs. Baltimore, 116 Md. 687, per Briscoe, J.

Levin vs. Hewes, 118 Md. 631, per Stockbridge, J.

Lohen vs. State, 117 Md. 383-4, per Patterson, J.

Worcester vs. Co. Comm., 113 Md. 308-311, per Urner, J.

Mealy vs. Hagerstown, 92 Md. 743, per Boyd, J.

State vs. Gurry, 121 Md. 539-40, per Constable, J.

Mt. Vernon vs. Frankford Co., 111 Md. 566-69, per Thomas, J.

Ridgly vs. Baltimore, 119 Md. 572, per Burke, J.

Respectfully submitted,

HENRY D. HARLAN,
BENJAMIN A. RICHMOND,
W. CALVIN CHESNUT,
S. S. FIELD,

For Appellant.

OPINION

Court of Appeals of Maryland

[April Term, 1918—Filed July 30, 1918.]

JOHN F. McGRAW
VS.
N. BOSLEY MERRYMAN,
Treasurer of Baltimore County.

Appeal from the Circuit Court for Baltimore County.

S. S. Field, Benjamin A. Richmond Henry D. Harlan, W. Calvin Chesnut and *Daniel R. Randall* for Mayor and City Council.

H. H. Dinneen for John F. McGraw et al.

T. Scott Offutt, Edward H. Burke, Shirley Carter, W. Irvine Cross and *Carville D. Benson* for Baltimore County.

Ridgely P. Melvin, Venable, Baetjer & Howard, Isaac Lobe Straus and *Stevenson A. Williams* for Anne Arundel County.

Argued before BOYD, C. J.; BRISCOE, BURKE, THOMAS, PATTISON, URNER, STOCKBRIDGE and CONSTABLE, JJ.

Annexation — Section 1, Article 13, of the Constitution of Maryland Does Not Apply to an Extension of the Limits of Baltimore City, and There Being No Other Constitutional or Statutory Provision Affecting It, There Is No Valid Ground for Holding That an Extension Which Affects the Lines of the Two Counties Can Not Be Permitted—There Is Nothing to Sustain the Contention That

Parts of Baltimore County Can Be Annexed to Baltimore City, But That No Part of Any Other County Can Be Annexed.

BOYD, C. J.—

At the last session of the General Assembly of Maryland there was passed "an act to extend the limits of Baltimore City by including therein parts of Baltimore County and Anne Arundel County," it being Chapter 82 of the Acts of 1918. The validity of the act has been attacked on several grounds—the principal one being that there is no referendum in it, as the appellees contend Section 1 of Article 13 of our State Constitution requires. Although there are five appeals from orders and decrees passed by the Circuit Court for Baltimore County and one from a decree of the Circuit Court for Anne Arundel County, the main questions are involved in all of them. The cases were, at the request of the attorneys for the respective parties, advanced by us, and were heard together. As no question was raised in any of them as to the procedure adopted, it will be unnecessary to make further reference to that.

Much stress was laid by the attorneys for the appellees upon the alleged injustice of this Act, but no one will challenge the rule by which we must be guided in our consideration of these appeals, that if the legislature had the power to pass the Act before us without a referendum, and in the form it was passed, this Court has no right to call in question the wisdom or even justice of it. As said by Judge Grayson in Groff vs. Mayor, etc., of Frederick, 44 Md. 67, in a case involving the validity of an Act extending the limits of Frederick City, after

referring to the power of the legislature to create municipal corporations, to amend their charters, enlarge or diminish their powers, extend or limit their boundaries, etc.: "The legislature having this constitutional power, the exercise of it is wholly within its discretion and it can in no wise be controlled by the courts"; and he concluded that opinion by saying: "Whether the power was wisely or unwisely bestowed, or the mode in which it has been exercised is just or unjust and burdensome upon the citizen, are questions with which the courts have no right to deal, but are within the exclusive control of the legislature." But the rule is too universally adopted by this and other courts to require other citations of authorities, and we will proceed at once to the consideration of such questions as should be passed on by us.

The one that first presents itself, and is of the gravest importance, is the scope and effect of the decision in Daly vs. Morgan, 69 Md. 460. In that case the constitutionality of Chapter 98 of the Acts of 1888, which was entitled "An Act to extend the limits of Baltimore City by including therein parts of Baltimore County," was before the Court. There was a referendum in that Act, and the question of annexation was submitted to the respective voters of the three parts of Baltimore County proposed to be annexed to Baltimore City. In two of them a majority was declared to be in favor of annexation, and in the other it was against it.

In Article 13 of our State Constitution, entitled "New Counties," Section 1, which was then in force and still is, authorizes the legislature to provide by law for organizing new counties, locating and removing county seats and

changing county lines, and contains this provision: "Nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the district, which, under said proposed change, would form a part of a county different from that to which it belonged prior to said change." It is contended by the appellees that that provision applies here, as it is proposed to change the lines of the two counties, although the district affected is to form a part of Baltimore City, while the appellants contend that it only applies to a change of lines of a county which would transfer the district to another *county,* and that it does not apply when the district, under the proposed change, would form a part of *Baltimore City.* But we must first determine whether this Court decided that question in Daly vs. Morgan, and, if so, are we bound by it as a controlling authority?

The bill of complaint in that case, in speaking of the Act of 1888, alleged that "the Act aforesaid is null and void, because the Constitution of Maryland gives no power to the legislature to annex any of the territory of a county to the City of Baltimore, nor does it empower said legislature to make the annexation of said territory depend upon the majority of the votes cast at an election provided for by legislative enactment," etc. The answer of the Mayor and City Council of Baltimore alleged that the Act was a constitutional and valid exercise of the legislative authority of the State, and that of the Treasurer of Baltimore County averred that the Act was wholly and utterly void, etc.

The argument of Colonel McIntosh and of Mr. Mitchell, solicitors for appellant in that case, as shown by their

briefs, was that Section 1 of Article 13 was the only provision in the Constitution which authorized a change of the lines of a county, and that only authorized such change when the district proposed to be changed would "form part of a *county* different from that to which it belonged prior to said change," and that was not synonymous with and in ordinary parlance did not mean "form part of a *city or Baltimore City* different from," etc. They argued that there was therefore no power in the legislature to change the lines of the county to annex it to Baltimore City. They also contended that the Act of 1888 did not conform to the requirements of Section 1 of Article 13, if held to be applicable, because the latter required the consent of the majority of the legal voters residing within the district, while they claimed that the Act only required a majority of the votes *cast*.

We find in the records of this Court that there are bound with the briefs for the appellant (Daly) opinions of Colonel Marshall, Judge Fisher and Mr. S. Teackle Wallis, presumably with the consent of the Court, which are mostly on the validity of Section 19 of the Act of 1888 providing for taxation. There are, however, some expressions of views on the necessity of a referendum. Judge Fisher's opinion, which was addressed to the attorney for the County Commissioners of Baltimore County, shows that one of the questions submitted to him was: "Can the limits of the city be extended by legislative enactment without submission to the voters in the territory to be annexed?" and apparently the same question was asked Mr. Wallis. Both of them answered in the negative, but the latter said it was "extremely doubtful"

whether it was competent for the legislature to annex the territory of Baltimore County, constitutionally, to Baltimore City in any way.

The brief of the city was for the most part confined to a discussion of Section 19 of the Act. It concluded by saying that there was appended to it the legal opinions given before the election by Messrs. Steele, Gwynn and Findlay, "which furnish additional arguments to those we have presented in favor of the constitutionality of the City Extension Act, and which we respectfully commend to the consideration of the Court." Those of Messrs. Steele and Gwynn were confined to the validity of Section 19, which seems to have been understood by the city to be the principal ground of objection to the Act, but that of Mr. Findlay very clearly and emphatically took the position that Article 13 did not apply to the city, and that the Belt could have been annexed by a legislative act without a popular vote. He dwelt on that at some length, and made the prediction that if annexation was voted down it would be the last time that it would be submitted to the voters, as such an act could be passed without a referendum.

We have thus referred to the briefs and opinions of prominent attorneys, filed with them by the respective parties, to show how far the attention of the Court was directed by them to the question whether it was necessary to have a referendum. As we have seen, another of the grounds relied on by the appellant for the Act being invalid was that it did not comply with the requirements of Section 1 of Article 13 in reference to the submission of the question of annexation. It may be that a sufficient

answer to that might have been the decision in Walker vs. Oswald, 68 Md. 146, although Colonel McIntosh sought to distinguish the two cases, but if the constitutional provision did not apply, and it was not necessary to submit the question to the people, there could not well have been a more complete answer to the contention and to the allegation in the bill that it was not submitted as required by that provision than to hold that an act for annexation to the city could be passed with or without the consent of the people, for if that be so, and the legislature chose to submit it, it could determine the terms, etc., of the submission, and hence it was immaterial whether the Act of 1888 complied with Section 1 or Article 13.

But let us see just what the Court did decide, and what the judges thought they were called upon to decide. Seven judges sat in that case. Judge Robinson delivered the opinion of the Court, and Judges Stone, Miller, Irving and McSherry concurred in it. Judges Alvey and Bryan concurred in the affirmance of the order appealed from, but differed in some of the conclusions reached by the majority, of which we will speak later. The Court, through Judge Robinson, said:

> "The power of the legislature to extend the limits of a city, by including therein parts of the county adjoining, when the city itself is a part of the county, is not and can not be questioned. It is contended, however, that Baltimore City being a separate and independent territorial division of the State, and not a part of Baltimore county, the legislature has no power to change the lines of the county by annexing part of its territory to the city. And in support of this contention the appellant relies entirely upon Section 1 of Article 13 of the Constitution."

The part of that section which we have quoted above was then set out in the opinion, which calls attention to the fact that

> "It does not say, as has been argued, that the lines of a county shall not be changed *except it be for the purpose* of annexing parts of one county to another county. It merely provides that when the lines of a county are to be changed for this purpose, it must be done with the consent of a majority of the voters residing within the district to be annexed."

The Court then uses this emphatic language, which can leave no doubt as to its construction of Section 1 of Article 13:

> "The object, and sole object, of this provision of Section 1 was to provide for the annexation of parts of one county to another. The entire section in fact, and the article in which it is found, deals exclusively with the organization of *'new counties,' 'the location of county seats,' and the mode* by which parts of one county may be annexed to another county, *and the limitation imposed upon the legislative power is in respect of these matters and these only.*" (Last italics ours.)

The opinion then pointed out some of the distinctions between counties and towns and cities, and, in speaking of the latter, said:

> "They are chartered by the Legislature, and their boundaries are fixed by it, and the power to extend them, whenever in its judgment the public interests require it, has been exercised by the Legislature from the earliest days of the colony."

It then concludes the discussion of that question by saying:

> "No one knew better than the framers of the Constitution of 1867 that the time must come, and that not far dis-

> tant, when the extension of the limits of a great city like Baltimore would be absolutely necessary to its proper growth and development. And if they meant to deny the exercise of this power by the Legislature, and to say that its limits as then defined by its charter should for all time remain the same, it is but reasonable to presume that this intention would have been declared in plain and explicit terms. So far from being expressly declared, there is nothing either in the language or terms of this section from which such an intention can be inferred. The Legislature has, therefore, in our opinion, the same power now which it has always exercised, to extend the limits of Baltimore City by including therein parts of Baltimore County, and this, too, *with or without the consent* of the majority of the voters residing within the districts annexed."

The appellees make special objection to the latter expression, but that was manifestly the necessary result of what had already been clearly and definitely settled in the opinion, as shown above. In the absence of a constitutional prohibition, there can be no doubt under the authorities that it is for the legislature to say whether or not there shall be a referendum in reference to the extension of the limits of a city or town.

> "Not only may the Legislature originally fix the limits of the corporation, but it may, *unless specially restrained in the Constitution, subsequently annex*, or authorize the annexation of, contiguous or other territory, and this without the consent, and even against the remonstrance of the majority of the persons residing in the corporation or on the annexed territory. * * * The power to enlarge the boundaries of a municipality by the annexation of contiguous territory is an incident to the legislative power to create and abolish municipalities at pleasure."
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> 1 Dillon on Mun. Corp. (5th Ed.), Sec. 355.

See also 1st McQuillin on Mun. Corp., Sec. 265, where many authorities are cited; Johnson vs. Luers, 129 Md.

521, 530; In re Pittsburgh, 217 Pa. 217, affirmed in Hunter vs. Pittsburgh, 207 U. S. 161. The Court having held that Section 1 of Article 13 did not apply, and there being no other restriction in the Constitution, that conclusion would necessarily have meant that the legislature could act *with or without the consent* of the majority of the voters, even if that expression had been omitted from the opinion, unless the Court had placed itself in conflict with the practically unanimous decisions of others courts and our own.

How then can it be said that the expression objected to was an *obiter dictum,* or that the question is not *res adjudicata?* Judge Bryan filed an opinion in which he concurred in the conclusion reached by the five judges, but differed with them as to whether it was necessary to have the consent of the voters. He did not suggest that it was an *obiter dictum,* but based his opinion on what he deemed to be the proper construction of Section 1 of Article 13. The reason he thought the Act of 1888 would have been unconstitutional, had it not required the consent of a majority of the legal voters, was that under his construction of that section it was applicable to Baltimore City, which, in construing the section, was to be considered and treated as a county. That is precisely contrary to what the majority of the Court held. He did not intimate that he thought the use of the expression referred to was unwarranted or even unnecessary, if the construction of Section 1 of Article 13 by the majority was correct. So in Judge Alvey's opinion on that subject. The most of his opinion was devoted to a dicussion of Section 19 of the Act, but he also concluded that Section 1 of Article 13 was applicable, and of course under his construction

of that section he thought "the popular election was an indispensable condition."

It will be noticed that the two dissenting opinions filed the same day the case was decided (November 23, 1888), which indicates that the majority not only had the views of the dissenting judges, but their written opinions before them, in which the attention of the majority was expressly directed to the question of the necessity for the consent of the voters. If it had been simply a passing remark by the learned judge who wrote the opinion, without due consideration having been previously given to it by all the members of the court, and it was not thought proper that it should be mentioned in the opinion, it is impossible to conceive that such men as then constituted this court would not have avoided any question about it, striking out that sentence, but all of them *must have known* that whether the expression criticized was *in or out* of the opinion, it was unquestionably *the necessary* result of the construction placed on Section 1 of Article 13 by the majority.

In view of what we have said we do not deem it necessary to quote at length from the decisions of this court as to what should be deemed binding in later cases, but in Alexander vs. Worthington, 5 Md. 471, 489, the question was discussed at length in an opinion delivered by Chief Judge LeGrand, and he concisely stated the rule to be, that

> "All that is necessary in Maryland to render the decisions of the Court of Appeals authoritative on any point decided is to show that there was an application of the judicial mind to the precise question adjudged; and this we apprehend is the rule elsewhere."

That was approved in C. C. & I. Co. vs. Sherman, 20 Md. 117, 131; Michael vs. Morey, 26 Md. 239, 261; State vs. Cowan, 94 Md. 487, 495; Carstairs vs. Cochran, 95 Md. 488, and other cases. That rule is not only applicable here, but in our judgment the decision of the question as to a referendum was directly involved in what was necessarily decided.

We do not deem it necessary or proper to again construe Section 1 of Article 13 of the Constitution. If we did so, there would be as much, if not more ground for the contention that our decision was *obiter dictum,* than there is for what was said in Daly vs. Morgan. We certainly would not be justified in overruling that decision, as much of the argument for the appellees was directed to having us do, even if we differed with the majority, which, we will only add, must not be inferred by reason of our declining to construe Section 1 of Article 13.

But it was argued that the decision in Daly vs. Morgan was limited to Baltimore County, and hence is not applicable to this case. We find nothing in that opinion to sustain the position that parts of Baltimore County could be annexed to Baltimore City, but no part of any other county could be. In that case the extensions were into Baltimore County, and that county alone was the one then being considered. The statement in the opinion referred to by the appellees that "The Legislature has, therefore, in our opinion, the same power now which it has always exercised, to extend the limits of Baltimore City by including therein parts of Baltimore County," can not properly be said to have been intended to limit the right to extend the boundaries of Baltimore City into

that county. It is said in the brief of the City that its limits had been extended into that county by ten different acts, all of them being while the City was still in Baltimore County. We have not thought it necessary to examine all of the acts referred to, but we know from the records of this Court that the limits had been extended, more than once, into Baltimore County, the last time prior to the Act of 1888 having been in 1816, and no inference can be drawn from the statement in the opinion quoted above, that they could not be extended so as to include part of some other county, but it meant, what it in effect said, that the Legislature had the same power to extend the limits "now"—that is to say, in 1888, when the present Constitution was in force, as it had when the City was a part of the County.

It was also argued that, as Anne Arundel County is separated from the City by a part of Baltimore County, and is not contiguous to the City, this Act for that reason can not be sustained, even if full effect be given to Daly vs. Morgan. Baltimore City is, for a considerable distance, on the opposite shore of the Patapsco River from the lands of Anne Arundel County, and it was decided in Raab vs. State, 7 Md. 483, that the Act of 1816, Chapter 209, extending the boundaries of that City, limited its lines to the north side of the river, thus leaving the portion of the river between the north shore line and the current (to which the Anne Arundel County line extended) in Baltimore County. Although it was intimated in West. Md. T. R. Co. vs. Baltimore City, 106 Md. 561, that but for that decision we might have held the contrary, we expressly declined to overrule it. But treating the boundaries of Baltimore County as inclusive of

the space in the river between the Anne Arundel County line, in the current of the river, and that of the City, this Act can not be held to be invalid for that reason. The lines of the proposed extension include all of that part of Baltimore County between the Anne Arundel lines and those of the City, and there is no intervening space. There is no statute or constitutional provision in this State, limiting an extension of the boundaries of a city to contiguous territory, as there is in some States, although it may be conceded that some part of the newly acquired territory should be contiguous. As will be seen from the cases collected in the notes to Morgan Park vs. Chicago (255 Ill. 190, 90 N. E. 388), in Ann. Cas. 1913D, 399, "The annexation of outlying territory to a municipality is commonly conditioned, by the statute authorizing the proceeding, on the situation of the territory to be annexed, it being required to be adjacent or contiguous to the municipality," but proper limitations of the rule are given in that note, where it is said, that

> "While the general rule is that land cannot be annexed to a city or town unless it is contiguous thereto, it is not necessary that each and every tract of land sought to be annexed shall be contiguous to the municipality. If all of the tracts are contiguous to each other, and one of them is contiguous to or adjoins a city, that is sufficient."

For that statement a number of cases are cited, and the same rule is stated in 19 R. C. L. 734, Section 40, and other authorities, but if we had found none on the subject we could have no doubt that such should be the rule.

Having reached the conclusion, as all of us have, after attentively listening to the able and thorough arguments of the attorneys, and after having given to them and the

questions involved such consideration, thought and study as their importance demands, that Daly vs. Morgan is a binding and authoritative decision, and that it was there determined by this Court, as then constituted, that Section 1 of Article 13 of the Constitution did not apply to an extension of the limits of the City of Baltimore, and there being no other constitutional or statutory provision affecting it, there can be no valid ground for holding that an extension which affects the lines of the two counties can not be permitted. As it was there held that the provisions as to the change of lines of the County did not apply to a change for the purpose of extending the limits of Baltimore City, it can make no possible difference that parts of two counties are affected, instead of only one. It was even suggested at the argument that such a conclusion would authorize an annexation to Baltimore of some part of a remote county, but we can not think that such a suggestion would be made on more serious reflection, and if it should ever be attempted, nothing that we have said can be relied on to sustain it. In this Act there are well defined lines which include additional territory on each side of and immediately adjoining the former boundaries of the City—the most of which was in Baltimore County, and the rest in Anne Arundel County, which adjoins Baltimore County—and the whole, together with the territory included in the City prior to the passage of this Act, constitutes one body.

It was also urged upon us that we should not feel bound to follow Daly vs. Morgan because of the great injustice that will be done the two counties and the people within the annexed territory. But as we have already stated, for whatever injury the two counties or the people in the

annexed territory may sustain, the responsibility rests upon the Legislature, and *not upon this Court.* If this Court should reverse one of its prior decisions which was so deliberately rendered, on a question of such vast importance as to demand of every Judge who sat his fullest consideration and best judgment, as we have endeavored to show was done in Daly vs. Morgan, because we felt that it worked a great hardship and possible injustice, not only would the principle of *stare decisis* have to be ignored, but it would have a tendency to cause decisions of Courts to be regarded as unstable and vacillating—depending upon the individual views of the Judges who happened to constitute the Court when such questions arose.

It is also suggested that the Act is in conflict with Article 16 of the Constitution—the Article on referendum—because it undertakes to affect taxes levied prior to June 1st, when the Act under that provision of the Constitution took effect, but it only attempts to affect the proportion of taxes from January 1st, 1919, to the end of the pending fiscal year, and does not seem to require further comment.

We will not discuss at length the objection made to the Act on account of the provisions in reference to taxation. Most of the argument on that subject is met by the decision in Daly vs. Morgan. That case has been cited over and over again in cases involving taxation under Chapter 98 of the Act of 1888, and subsequent Acts in reference to taxation of property within the Belt. It is there held that the principle of equality in taxation was fully gratified by making local taxation equal and uniform as to all

property within the limits of the taxing district, and hence the 15th Article of our Declaration of Rights was not violated by the Act of 1888. Judge Alvey dissented, but the other six Judges who sat were of the opinion that the Act was valid. Chief Judge McSherry said in Sindall vs. Baltimore City, 93 Md. 526:

> "It must be borne in mind that at the date of the adoption of the Annexation Act a large part of the added territory was unimproved, outlying rural land. It would have been manifestly unjust to have subjected such property to the same valuation and to the same rate of taxation as then obtained in the City with respect to distinctly urban property."

In Baltimore City vs. Gail, 106 Md. 684, Judge Burke quoted from Judge Robinson's opinion in Daly vs. Morgan and from Chief Judge McSherry's in the above case to the same effect. In Miller vs. Wicomico County, 107 Md. 438, Judge Briscoe referred to Daly vs Morgan, and said:

> "The same power which authorizes the Legislature to make one taxing district of an entire city, equally authorizes it to make two or more taxing districts, if in its judgment the public interest require it."

But as it would seem clear that even if the position taken by the appellees on the question of taxation be conceded to be correct, it would not invalidate the whole Act, it is unnecessary to continue the discussion of the subject. Not only did Judge Alvey take that position in his dissenting opinion in Daly vs. Morgan, but Judge Robinson in speaking for the majority also in effect did. The case of Steenken vs. State, 88 Md. 708, cited that case, amongst others, on that question. If that be correct in a case where the question had been submitted to the people,

there is all the more reason why it should be so in this case where it was not submitted.

The question in reference to the part of the Act which has a saving clause as to certain officers who reside within the annexed territory, certainly can not affect the rest of the Act. Nor do we find anything in the Act to justify the contention that it is taking property without just compensation, or without due process of law. It is said that Baltimore County owns a number of properties within the annexed district which it had purchased under tax sales. But the provisions for Baltimore City taking over the public property cannot be construed to mean such property as that. It only means such as is held for public purposes and not any property that either county may own that does not come in that class.

The rule is thus stated in 1 Dillon on Mun. Cor. (5 ed.), Section 360:

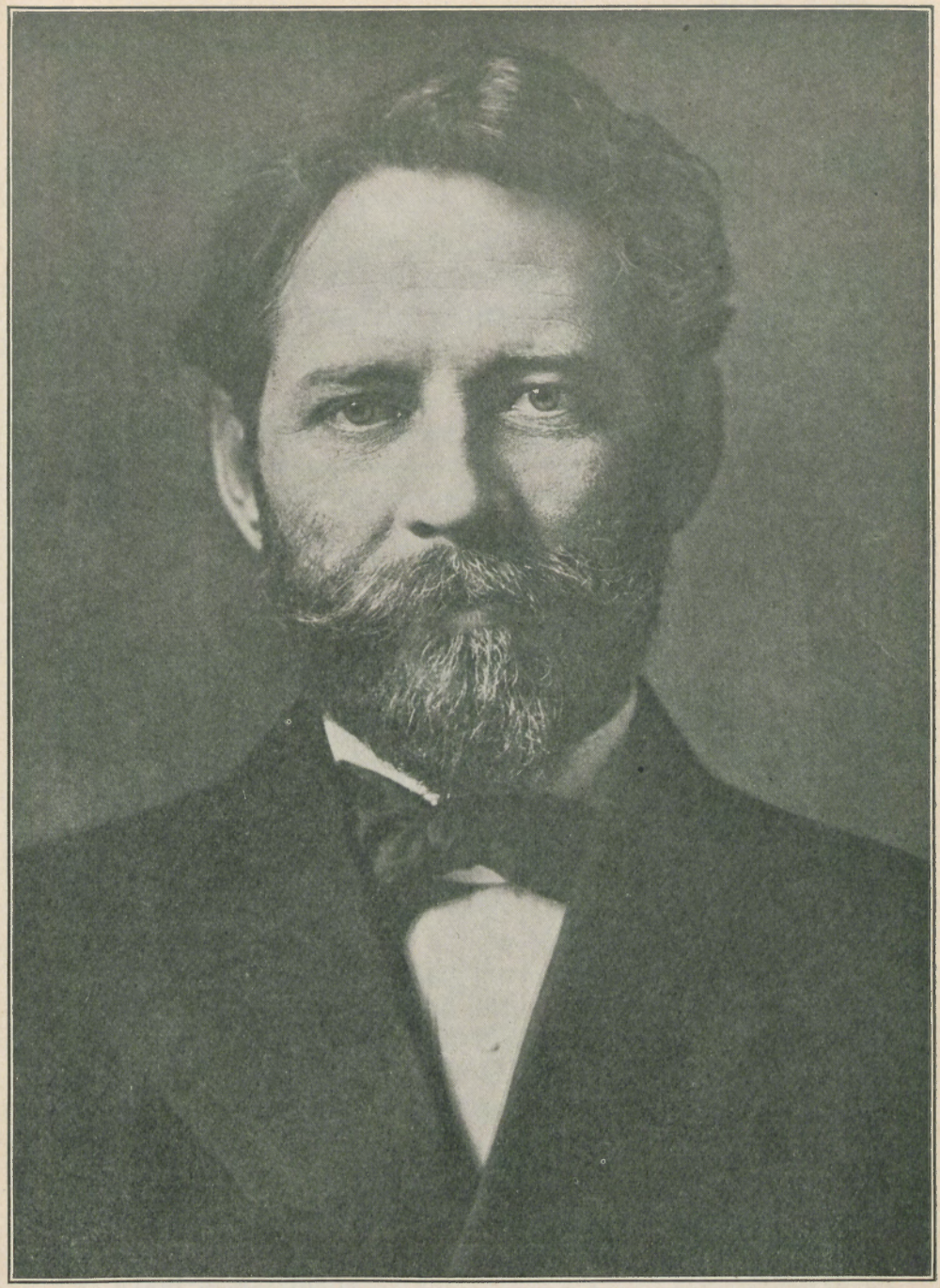
> "Upon the annexation of part to another corporation, *the Legislature may provide* for an *equitable apportionment or division* of the property, and impose upon the new corporation, or upon the people and territory, thus disannexed, the obligation to pay an equitable proportion of the corporate debts. But there is usually no constitutional requirement that the Legislature shall make such provision, and in the absence of such requirement it may provide for the annexation of territory to a municipality and the transfer to it of such public property as may be within the territory annexed, without imposing upon the municipality any obligation either to pay for the property so transferred or to assume and pay for any portion of the unpaid debts contracted in the acquisition or erection of buildings and other property transferred."

As will be seen from Sections 358, 359 and the rest of 360 of that volume it is generally held that, in the absence

of a constitutional provision, the Legislature makes the disposition of public property.

In Hunter vs. Pittsburgh, 207 U. S. 161, 52 L. Ed. 151, which affirmed In re. Pittsburgh, 217 Pa. 227, 66 At. 348, the question is considered at some length, in reference to property held and used for governmental purposes. But if there be any property owned by either of the counties, in addition to that held and used for governmental purposes, for which it can be said proper provision has not been made, that would not require the portion of the Act providing for the annexation to be set aside. Without attempting to refer to other points which have been raised, we are of the opinion that all of the cases before us must be reversed.

Order reversed and cause remanded, in order that a mandamus issue as prayed—the costs to be paid by the County Commissioners of Baltimore County.



S. S. FIELD, CITY SOLICITOR.

Mr. Field is deservedly receiving the congratulations of many of his fellow Baltimoreans for his successful conduct of the City's case before the Court of Appeals, whereby the constitutionality of the Annexation Act was upheld. From the drafting of the bill to this final legal triumph, Mr. Field has played a most important part in the movement to secure City extension. In recognition of his distinguished services Mayor Preston has arranged for a complimentary dinner to be given Monday evening, August 12.

(Municipal Journal of August 9, 1918.)

[From The Sun of August 13, 1918.]

FIELD'S WORK PRAISED

Mayor and Others at Dinner Commend City Solicitor—Silver Service Presented—Complimentary Banquet is Given at Mr. Preston's Home, on Charles Street.

City Solicitor S. S. Field was given a dinner last night at the home of Mayor Preston, 820 North Charles street, by the City of Baltimore, "in recognition of the distinguished services rendered to the City of Baltimore in the passage of the city extension act of 1918."

Toward the close he was presented a beautiful silver service, City Comptroller James F. Thrift making the address in "behalf of the Mayor and City Council of Baltimore, and in behalf of the hundreds of thousands of the citizens of Baltimore who fully appreciate your efforts in their behalf."

It was a beautifully appointed dinner. Covers were laid for about 75 guests. Several ladies were present, including Mrs. Field, Mrs. William C. Page, wife of City Collector Page; Mrs. Walter W. Preston, of Belair, and Mrs. Norris Barratt, of Philadelphia. The Mayor, who arranged the dinner, eulogized Mr. Field. He said:

"The movement for City extension which we began seven years ago has just reached its successful conclusion. The trebling of the area of the City and adding 100,000 people to its population is perhaps the most important event in our history.

Field Important Factor.

"There have been many people and many agencies and many causes contributing to this. Many of the people who have assisted materially in this effort for City extension are gathered around this table, and the appreciation and gratitude of the City is due to all of these, but the special occasion of our dinner tonight is to express our recognition of the very valuable legal professional services rendered by the City Solicitor of Baltimore to the cause of City extension. Important bodies of citizens have assisted in this movement. Great organizations, great newspapers and powerful individuals have their share in the consummation of this work, but I think it safe to say that without the industry, public spirit and profound legal ability of Mr. S. S. Field, to whom we are tendering this dinner, we could not have reached the satisfactory results as attained in the present Annexation Act.

"Above all the measure is a fair one. It is fair to Anne Arundel County and Baltimore County as any bill taking territory from them can be. It is fair to Baltimore City and is not hampered with any undue or unfair burden. It is fair to the citizens and property owners in the territory which has been absorbed into Baltimore City.

"This quality of reasonableness and fairness is due very largely to the ability and industry of Mr. S. S. Field.

"Only Thought For Public Good."

"May I also say an additional word on the general subject of Mr. Field as City Solicitor, as a man and as a citizen of Baltimore and politician, if you will? From

the 15 years which I have had the pleasure of being associated with him in the practice of law and in the City Hall, I found that his only thought has been for the public good, that he possesses an unselfish desire to serve well the public and to see that the money of the city is wisely expended, that no one was permitted to take advantage of the city either at the trial table in the settlement of cases or in the deliberations of the Board of Estimates.

"He has brought to the services of the city not only a high professional ability, but a profound sense of the public obligations.

"He has been longer City Solicitor than any one man in the history of our city, and I believe he has had a more profound influence on the destiny of the city than any City Solicitor that has ever held that office."

Other speakers, in addition to Mr. Field, included former Mayor E. Clay Timanus, who was chairman of the Non-Partisan Greater Baltimore Extension League; former Judge Henry D. Harlan, George R. Gaither, City Comptroller James F. Thrift, Gen. Felix Agnus, William L. Marbury, Blair Lee, former Mayor J. Barry Mahool, Col. William H. Welch and B. Howell Griswold, Jr.

Says Mr. Field Deserves Monument.

Former Mayor Timanus predicted that Baltimore would have a population of 1,000,000 by 1920, and said the City Solicitor deserved a monument for his great work. Mr. Gaither said, addressing Mr. Field and mentioning also the Mayor: "You will have a monument in the great city of Baltimore more enduring than brass and more beautiful than marble."

Mr. Field received an ovation as he arose to reply to the Comptroller's address presenting the silver and to the many nice things the Mayor and other speakers had said of him. Mr. Field spoke of the Mayor as "the head and leader and author of the movement for a greater Baltimore."

He said he would lay aside for the moment his personal gratification and join with the Mayor and the guests "in felicitating the people of Baltimore upon the result. For whether," he added, "we regard the development of the city, which may be reasonably expected to follow the extension of its boundaries, or the difficulty of obtaining a proper act providing such extension, all will agree that the Act of 1918, Chapter 82, is the greatest accomplishment for the city of Baltimore in its entire history. The act gives to the city ample room in which to grow and in which to develop manufacturing and commerce—95 square miles, in place of 31—and on terms which are fair to the city as well as to our fellow citizens in the new addition."

There was plenty of music, and the long table was filled with flowers. Baritone solos sung by Charles Trowbridge Tittmann. Souvenir menu cards were provided, bearing the names of the guests.

Who Guests Were.

The list of invited guests follows:

Gen. Felix Agnus, Walter Alexander, Edward H. Bouton, Dr. John D. Blake, Andrew D. Brashears, John R. Bland, Judge Norriss S. Barrett, Philadelphia, J. Cookman Boyd, Eugene H. Beer, Harry Busick, Allan L. Carter, James W. Chapman, Jr., Peter J. Campbell, W. Calvin

Chesnut, Edward J. Colgan, Frank Driscoll, W. Mitchell Digges, Andrew J. Deitrich, George Arnold Frick, G. Harris Field, Louis K. Gutman, Richard Gwinn, Robert Garrett, B. Howell Griswold, Jr., George R. Gaither, John Hubert, Frederick R. Huber, J. Ferd. Hayward, Jacob W. Hook, Henry D. Harlin, W. Laird Henry, Alexander R. Hagner, Edward Hanlon, Edward A. Hartman, J. Legard Jones, William P. Jackson, Charles Kreuder, Jr., Oscar Leser, Robert F. Leach, Jr., Walter E. Lee, Daniel J. Loden, Blair Lee, Henry Lloyd, W. Bladen Lowndes, William A. Larkins, Joshua Miles, William M. Maloy, Benjamin H. McKindless, John J. Mahon, John H. Morgan, James Carey Martien, William Mohr, William L. Marbury, J. Barry Mahool, John F. Mudd, James P. McGovern, Alfred S. Niles, Charles E. Norris, J. J. Nelligan, William F. O'Conor, Alexander Preston, Walter W. Preston, James H. Preston, Jr., William C. Page, James Alfred Pearce, William P. Ryan, R. Contee Rose, Benjamin A. Richmond, John H. Richardson, John H. Robinette, Albert M. Sproesser, Major Joseph W. Shirley, James F. Thrift, Dr. John B. Thomas, James McC. Trippe, Arthur W. Thompson, E. Clay Timanus, George Vavrina, Edwin Warfield, Herbert A. Wagner, Henry Weeks, Morris Whitridge, Dr. William H. Welch, George Washington Williams, George Weems Williams and Otto Wenzing.

[From The American of August 13, 1918.]

FIELD HONORED FOR ANNEX WORK

City Host of Solicitor at the Mayor's Home—Silver Service Presented—Attorney's Strategy in Fight is Appreciated. Representative Citizens and Leaders of Administration Gather to Pay Honor to Man Who Gave Unselfishly of His Time and Effort That Baltimore Might Attain Its Ambitions, in Face of Formidable Opposition—Eminent Colleagues Pay Tribute.

In recognition of his distinguished efforts in securing for Baltimore the passage of the annexation bill and its ratification by the Court of Appeals, City Solicitor S. S. Field last night was the guest of the city of Baltimore, at a magnificently arranged dinner in the home of Mayor Preston.

The function was notable, first of all, from the fact that it called for the expressions of the city's gratitude to one of its leading figures, from the lips of the most eminent of its citizens, prominent among them, the Mayor, who himself was the first to recognize the necessity of expansion for a city whose importance must now be measured by its commercial possibilities.

As a material evidence of the municipality's gratitude to Mr. Field, whose wisdom and acumen in the technical features of municipal growth, won a brilliant victory, the persevering and indomitable solicitor was presented a silver set of six pieces. Comptroller James F. Thrift made the presentation address.

Mayor Preston welcomed the guests on behalf of the city and then reviewed the history of annexation, paying a high tribute to Mr. Field.

When he first mentioned his name he gave the signal for an enthusiastic ovation for the man who made Baltimore, the city of a million, not merely the vision of a dreamer, but a goal, well in sight of attaining.

Mayor Preston felt that the vigorous efforts of Mr. Field, both before the Legislature and the Court of Appeals, on behalf of the city, deserved official recognition and, accordingly, arranged the dinner.

What Mayor Said.

Mayor Preston said:

"The movement for City extension which we began seven years ago has just reached its successful conclusion. The trebling of the area of the City and adding 100,000 people to its population is perhaps the most important event in our history.

"There have been many people and many agencies and many causes contributing to this. Many of the people who have assisted materially in this effort for City extension are gathered around this table, and the appreciation and gratitude of the City is due to all of these, but the special occasion of our dinner tonight is to express our recognition of the very valuable legal professional services rendered by the City Solicitor of Baltimore to the cause of City extension. Important bodies of citizens have assisted in this movement. Great organizations, great newspapers and powerful individuals have their share in the consummation of this work, but I think it safe to say that without the industry, public spirit and

profound legal ability of Mr. S. S. Field, to whom we are tendering this dinner, we could not have reached the satisfactory results as attained in the present Annexation Act.

Measure a Fair One.

"Above all the measure is a fair one. It is fair to Anne Arundel County and Baltimore County as any bill taking territory from them can be. It is fair to Baltimore City and is not hampered with any undue or unfair burden. It is fair to the citizens and property owners in the territory which has been absorbed into Baltimore City.

"This quality of reasonableness and fairness is due very largely to the ability and industry of Mr. S. S. Field.

"May I also say an additional word on the general subject of Mr. Field as City Solicitor, as a man and as a citizen of Baltimore and politician, if you will? From the 15 years which I have had the pleasure of being associated with him in the practice of law and in the City Hall, I found that his only thought has been for the public good, that he possesses an unselfish desire to serve well the public and to see that the money of the city is wisely expended, that no one was permitted to take advantage of the city either at the trial table in the settlement of cases or in the deliberations of the Board of Estimates.

"He has brought to the services of the city not only a high professional ability, but a profound sense of the public obligations.

"He has been longer City Solicitor than any one man in the history of our city, and I believe he has had a more

profound influence on the destiny of the city than any City Solicitor that has ever held that office."

Mayor Preston was followed by Judge Henry D. Harlan. He pointed out that this was an unusual occasion—there had never before been given a dinner in honor of the city solicitor of Baltimore, and such an honor had never been more richly deserved than in this case.

"Baltimore," he continued, "a city of about 30 square miles, now has become a city of more than 80 miles. Its population has increased by about 100,000. And think of the wonderful opportunities which are now offering themselves to Baltimore. Baltimore can now grow and become a city, systematically planned and developed, so that it will be as well a beautiful as a practical city. But think also of the great responsibilities this victory won by the city has laid upon the officials of the city."

Mr. Timanus' Praise.

E. Clay Timanus was the next speaker. Mr. Timanus was eloquent in his praise of the City Solicitor, who, he said, had done the most honorable work that has been done by any man in Maryland. He added that no other man could have put it over but he (Mr. Field), who went single-handed to Annapolis and vanquished all of the opponents of annexation. Reviewing the defeat at the former session of the Legislature, Mr. Timanus then spoke of the organization of the Non-Partisan Greater Baltimore League, which was brought about by Mr. Field.

"The fight, this last time," he continued, "was not an easy one, and everyone had to be on the job all the time. Once when difficulties arose, my friend, General Agnus, told me to deliver the message to those in the fight, that

they could always count on the support of The American in the fight for the bill."

Mr. Timanus suggested a lasting tribute to Mr. Field, which he thought might be in the form of a monument.

William . Marbury said that in making the fight, Mr. Field not only did a great service for the city, but vindicated the authority of the law. "He upheld," Mr. Marbury said, "the principle that an established law must not only bind the people, but even the courts, as against the principle in the Oriental law where you cannot cite a precedent in court and ask the judge to decide your case upon that."

George R. Gaither lauded all those connected with the furtherance of the city extension measure, but said fundamentally honor is due to Mayor Preston, who conceived the idea, when he proposed the formation of the Non-Partisan League. Mr. Gaither likened the annexation fight to the conflict across the sea, and showered praises on Mr. Field, the field marshal in the state struggle to the heavy artillery in the form of the "Mighty Baltimore Press" and to all other forces which contributed toward giving the glorious old city the most magnificent harbor on the Atlantic Coast and the beautiful hillsides for additional homes for our growing population.

Former Senator Blair Lee attributed the victory to the fairness of the measure and told in his talk of Mayor Preston and City Solicitor Field's work in behalf of the measure during the last seven years.

Mr. Thrift's Words.

Comptroller James F. Thrift said that together with a number of other members of the bar he felt that the con-

stitutionality of the annexation act would not be upheld by the Court of Appeals. He was proud, however, that City Solicitor Field, unswerving in his belief that it was constitutional, employed his rare knowledge of law to secure the passage of the act and make "Baltimore City 50 years ahead of six months ago."

Concluding his address, Mr. Thrift turned to Solicitor Field and told him that the city in its desire to give a substantial expression of its gratitude wished to present a beautiful six-piece service of silver. The service was then presented and Mr. Field acknowledged it gracefully.

Mr. Field Eloquent.

City Solicitor Field in response to the many kind things said about him by the speakers, said, in part:

"No words at my command will adequately express the profound appreciation which I feel of the honor conferred upon me by this occasion and by this gathering of distinguished men. The effort for a proper extension of the limits of Baltimore City on fair and reasonable terms has been crowned with success, not partial, but full and complete.

"You rejoice at the happy outcome of the long struggle, and in your rejoicing you are most generous in ascribing to me so large a part of the credit for the result. You have spoken so flatteringly in reference to my services to the cause that I am afraid our friends, General Straus and Scott Offutt, would class much of what you have said as obiter dictum. But it was none the less pleasing to my ears.

"I am grateful, first of all to Mayor Preston, my friend of many years and my chief and co-worker for the last

seven years in many efforts for the good of Baltimore. His friendship is one of the precious things of my life. It has helped to make my work as city solicitor a labor of love. His thoughtfulness suggested this occasion in my honor. No words commending my efforts have been more gracious than his, and his official position as Mayor and as leader of the movement for city extension gives added weight to what he has said. You know my feelings. I can only say I thank you.

No Better Reward.

"No better reward can come to a public servant than the voice of the people saying: 'Well done, good and faithful servant.'

"But I must lay aside for the moment my personal gratification and join with you in felicitating the people of Baltimore upon the result. For whether we regard the development of the city which may be reasonably expected to follow the extension of its boundaries or the difficulty of obtaining a proper act providing such extension, all will agree that the Act of 1918, Chapter 82, is the greatest accomplishment for Baltimore City in its entire history.

City of a Million.

"With a harbor equaled by few and surpassed by none, and with the area on both sides of that harbor specially adapted to manufacturing now in the city, it requires no great vision to see Baltimore in a few years a city of 1,000,000 people, with a commerce second only to New York, and one of the chief manufacturing centers of the world. And this will be attained without putting an onerous and unjust financial burden on the people within the old city.

"Looking back now after the battle is over, we wonder how it was won. It was won because we fought for a cause that was just; the battle was pitched on the high plane of merit, and there was splendid co-operation among those who fought. There was no strife for leadership or place or position. All fought for the cause. The newspapers of our city had a large place in the undertaking and did their part well. Many of the county papers helped. Effective aid was rendered by broad-minded men throughout the State, led by that ripe scholar and jurist, Judge James Alfred Pearce.

"The details of the campaign were admirably managed by the officers and directors of the league and members of the committees."

Other speakers were Judge Alfred Niles and Lieutenant Colonel William H. Welch, of the Johns Hopkins University and of the U. S. Medical Corps.

[Editorial in The American of August 13, 1918.]

MR. FIELD'S GOOD WORK.

City Solicitor S. S. Field well deserved the tributes that were paid him at the dinner given in his honor by Mayor Preston. Baltimore has no more faithful and efficient public official than is he, and while The American does not always agree with his views, it cannot fail to recognize his ability, faithfulness and excellent work. This dinner was largely in recognition of Mr. Field's continued labors in behalf of the Greater Baltimore Annexation Bill, which, largely through his efforts, was

passed by the Maryland Legislature and pronounced valid by the Court of Appeals. It was the convincing arguments of Mr. Field before the committees of the Legislature and later before the courts that made annexation a surety.

Mayor Preston played a conspicuous part in the campaign in the interests of the city, but he left the legal part to Mr. Field, and the result shows how well that work was done.

[Editorial in The Baltimore News of August 13, 1918.]

SOME OF MR. FIELD'S WORK.

The dinner given City Solicitor Field by Mayor Preston last night was in recognition of some splendid work. If Baltimore has at length come into its own, it has been by way, not of brute force but of convincing argument, honest propaganda, a true educational campaign. The counties had to be made to feel this city's imperative necessities. Baltimore county and Anne Arundel county could bolster up their case by appeals to traditions, by distortion of the issues, by juggling with the figures of municipal finance, debt and taxation and by resort to every conceivable misrepresentation of the city's necessity and motive. It is always easier to confuse ignorance than to dispel it. And, however great the service Mr. Field rendered in his able conduct of the strictly legal phases of the fight, he rendered a greater in his management of the educational campaign. It is no small thing to go through such a contest without once leaving the firm ground of solid logic and truth. Not only the sub-

urbanites but the State at large and this community itself knew a great deal more about Baltimore after he had finished than before he began, and what was learned was fundamental. It will render vastly easier the intelligent development of the new territory, and the fact is noteworthy that the community as a whole is viewing the added area as a serious responsibility and not merely as so much outlying terrain added and done with.

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